

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Countryside and Regulatory Services
Date:	20 May 2024
Title:	Scheme of Delegation for Land and Asset Transactions
Report From:	Director of Universal Services

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Purpose of this Report

1. The purpose of this report is to consider the existing arrangements for general officer delegations and authorisations for carrying out land and asset transactions in relation to the County Council's land and assets, and to make proposals for consolidating, and, where deemed appropriate, updating the delegations and authorisations to make them more fit for purpose. This follows the structural changes to the organisation of the County Council on 1 January 2023, the adoption of the Strategic Asset Management Plan 2023 to 2028 and in recognition of the need to manage costs for the County Council whilst also supporting more effective and agile decision making.

Recommendation

2. That the proposals set out in this report for consolidating and updating the delegations relating to land and assets be agreed, and authority is delegated to the Director of Universal Services in respect of the new delegations set out in Appendix A with effect from 21 May 2024.

Executive Summary

3. This paper seeks to
 - set out the current position in terms of officer delegations and authorisations in relation to land and asset transactions concerning the County Council's land and assets
 - make proposals for updating the delegations and authorisations to enable the efficient and effective delivery of land and asset transactions
 - recommend that the proposed new scheme of delegations and authorisations is adopted

Contextual information

4. Under the constitution, the Leader and Executive Member for Hampshire 2050 and Corporate Services has responsibility for strategic asset management and

strategic land, including higher value land and asset transactions above £1m capital value and the Executive Member for Countryside and Regulatory Services has responsibility for operational asset management including asset transactions with lower financial values, both revenue and capital.

5. Historically, there have been general delegations and authorisations in place to enable lower value land and asset transactions and associated asset management activities to be undertaken without the need for an Executive Member decision, to support the efficient and timely management of the County Council's estate. This involves Executive Member delegation to the relevant Director with subsequent cascaded authorisations within the Officer hierarchy based upon different financial thresholds.
6. The existing officer delegations and authorisations for land and asset transactions have evolved over several decades. There are many individual delegations and authorisations, with some going back to 1974. The current financial delegation and authorisation thresholds were last reviewed and approved for amendment by the Executive Member for Policy and Resources in March 2014.
7. Land and asset transactions relating to operational asset management activity and/or where the capital value of the asset transaction is less than £1m sits under the portfolio of the Executive Member for Countryside and Regulatory Services but may be undertaken by the appropriate officers in either directorate, depending on the individual project and the specific surveying expertise required.
8. The recent organisational changes at the County Council together with adoption of the Strategic Asset Management Plan 2023 to 2028 have highlighted that there is merit in consolidating these delegations and authorisations and bringing them into one place.
9. This report relates to assets transactions that lie within the Executive Member for Countryside and Regulatory Services portfolio. Part 1 of this report seeks to summarise the key principles underpinning different types of transaction to ensure agile, robust, and financially managed decision-making. Part 2 of the report summarises the range of transactions that are to form part of the proposed delegation for the Director of Universal Services, whilst potential changes to the current approved financial thresholds for these delegations and authorisations are considered in Part 3 of the report and detailed in Appendix A. A parallel report is being taken to the Executive Member for Hampshire 2050 decision day on 21st May 2024 for delegations to the Director of Hampshire 2050 in relation to transactions which fall within the Leader's portfolio.

Part 1 – Strategic Asset Management Plan (SAMP) Principles

10. Land and asset activity is undertaken by teams of appropriately qualified surveyors in both the Hampshire 2050 and Universal Services directorates. The value, and sometimes the nature of the asset transaction, determines whether it is reported to the Leader and Executive Member for Hampshire 2050 and Corporate Services portfolio or within the portfolio of the Executive Member for Countryside and Regulatory Services.
11. Whatever the origin and purposes of a given transaction, there are nevertheless several key SAMP principles that underpin and inform the judgements made by

Officers and the resultant recommendations, whether that be to an Executive Member or under an officer delegation and authorisation. Table 1 below seeks to summarise these principles which have been grouped around financial prudence, agility and future proofing and ensuring a comprehensive and necessarily contextual view is always taken.

Table 1:

Strategic Asset Management Plan: Asset Transaction Principles	
Principle	Approach
Establishing a clear business case	Ensuring there is a clear and costed business case in place to support disposal, acquisition or change in basis of occupation/use of an asset
Understanding the full cost of a decision	Ensuring that all HCC cost implications are fully understood, including aggregated revenue costs, contractual charges (including rent reviews) and any dilapidations liability. To include an understanding of the cost of alternative options/decisions.
Minimising the cost and liabilities to HCC	Ensuring that costs in use, including landlord's repair/maintenance obligations, are passed to any third-party occupier directly wherever possible or are recovered through a service charge.
Enabling flexibility	Requiring an explicit decision to renew a lease (contracted out of the Landlord and Tenant Act) to allow HCC or a third party to continue to occupy an asset.
	Including contractual terms that support changing circumstances e.g. rolling breaks
	Explicitly consider the implications of granting use of part of an asset when the remainder is or could be surplus to HCC needs or where an alternative HCC use could enable exit or disposal of another asset.
Considering future opportunities and value	Including restrictive covenants, overage clauses, or similar, to protect onward value to HCC, where appropriate.
	Clearly evaluate and document the implications of the decision on longer term asset opportunities, relative to other options e.g. grant of an easement or sale of a smaller part of an HCC ownership on the future opportunities for and value of the wider ownership.

12. These principles act as a 'golden thread' for land and asset decisions, providing a consistency of approach (wherever the decision emanates from) and ensure that a whole cost position is always evaluated. The table references the need to undertake an options analysis to review (and cost) a range of choices. Given the current financial context, it is recommended that any options analysis is supported by an appropriate level of support from finance colleagues including the S.151 Officer as necessary.

Part 2 - Scheme of Delegations

13. For the reasons set out above, it is considered that there are benefits to be gained from updating and consolidating the previous officer delegations and authorisations relating to land and asset transactions carried out on behalf of the County Council by appropriately qualified surveyors in the estates management and rural estates functions in the Universal Services Directorate.
14. The activities of the estates management and rural estates function are many and varied. They include land and property acquisitions and disposals, the granting and taking of leases and other forms of Agreements and all activities associated with those leases, asset management, valuation work including for the asset register, business rates, and many more.
15. Having reviewed the nature of work undertaken and the existing delegations and authorisations, it is proposed to have a new set of delegations for each area of work. These are set out in the following paragraphs. All powers which are delegated will be exercised in accordance with the Constitution, Contractual Standing Orders and Financial Regulations of the County Council including, where appropriate, consultation with the Executive Member and Chief Financial Officer or their representative. They will also be exercised in accordance with the specified financial limits set out in part 3 of the report.
16. The following new delegations and authorisations for the estates management and rural estates function are proposed for the Director of Universal Services to ensure that the decision-making process is as efficient as possible and to minimise delays to transactions which could cost the County Council money:
 - a) **Property acquisitions** – the acquisition of any property which is required to implement projects in the approved capital programme, or which have been otherwise specifically approved including the settlement of all terms.
 - b) **Property disposals** – the marketing and disposal of any property which is confirmed as surplus to the requirements of the County Council (in line with the SAMP and in collaboration with Hampshire 2050) including the settlement of all terms.
 - c) **Leases and other Agreements** – the granting and taking of leases, tenancies, licences, easements, wayleaves and other Agreements which are appropriate for the effective operation of the County Council's property estate including the settlement of all terms.
 - d) **Asset management** – the exercise of all tasks associated with the effective management of the property estate including, but not limited to, rent reviews, the setting and collecting or paying of service charges and other recoverable costs, the seeking or granting of consents for assignment, subletting or alterations, terminating Agreements, implementing break clauses, serving of Notices, lease variations, restrictive covenant variations or removal, the appropriation of property from one purpose to another, entering into Section 106 Agreements (as land owner only, not in a regulatory capacity), dilapidations claims under leases, Party Wall Act Agreements, challenging and agreeing business rates and council tax assessments, and including the settlement of all terms.
 - e) **Valuations** – the preparation of valuations for all purposes including for the asset register.

- f) **Compulsory purchase and compensation** – the acceptance of any valid blight or purchase notices, and the settlement of valid claims for compensation associated with any County Council projects including home loss payments, disturbance payments, advance payments and any other valid claims.
17. For clarity, these delegations and authorisations do not extend to decisions around the reinvestment of any capital receipts. Where relevant, proposed changes to current financial thresholds for these delegations and authorisations are set out in Part 3 below. The proposed revised delegations and authorisations are summarised in Appendix A.

Part 3 - Financial Thresholds

18. Exercise of powers delegated to the Directors by the Executive Member in relation to land and asset transactions has always been subject to financial limits. These limits have routinely been extended to other matters where a sum of money is to be either paid or received, such as statutory compensation claims or the settlement of dilapidations claims under leases. It is proposed that this approach should continue.
19. The thresholds originally set by the then Land Sub-Committee in the 1979 were £100,000 for capital payments or receipts and £10,000 per annum for revenue. Any sale, purchase, lease, rent review or other matter involving a sum more than these limits required Sub-Committee approval. These figures were last reviewed in 2014, when new limits of £250,000 for capital and £25,000 per annum for revenue were set. These are the figures which currently apply.
20. A review of the current financial limits has been undertaken and it is considered that the decision-making process could be made more effective and efficient by some amendments. This would include a combination of increasing the financial levels for income generating transactions (both capital and revenue), maintaining the existing financial level for certain transactions, and removing the financial levels in certain situations. The revised thresholds have taken into consideration the increase in property values in the last 10 years. The proposals would also align the delegations and authorisations with other areas such as Contracts.
21. The following changes to the financial thresholds are proposed, and summarised in Appendix A:
- a) **Capital disposals:** The current threshold of £250,000 has caused some difficulties with several transactions, particularly with the sale of residential properties. There is often a linked chain of transactions for residential sale and an expectation that transactions will proceed quickly. Increasing the threshold to £500,000 for capital receipts in consultation with the Executive Member would largely address this issue and would also remove risks of delay in taking possession of property being purchased for a County Council scheme or project.
 - b) **Capital acquisitions:** It is proposed that the current threshold of £250,000 in consultation with the Executive Member remains unchanged to ensure on-going financial prudence. This threshold applies to the cumulative value

of a lease taken by the County Council where this is capitalised for accounting purposes.

c) **Revenue transactions:**

(1) *Granting a lease*: the current threshold of £25,000 per annum causes delays on a regular basis in relation to the grant of a new lease. It can affect the completion and occupation under new lettings, accommodation for Pre-Schools, and where surplus space in otherwise operational buildings is to be shared with partners. Again, there is an expectation from occupiers that, once terms are agreed, the matter will be concluded quickly. Any delay also impacts on the income that the County Council receives through rent and service charge. Increasing the threshold to £50,000 per annum with an upper limit of £500,000 cumulative value of the initial term of a lease, would allow most lettings to proceed quickly.

(2) *Taking a lease*: it is proposed that the current threshold of £25,000 p.a. remains unchanged to ensure on-going financial prudence.

- d) **Existing Agreements**: the current scheme of delegations and authorisations requires that Executive Member approval is sought and obtained in relation to matters which flow from contractual commitments under existing Agreements and where the financial level exceeds £25,000 per annum. The most common example is a rent review. The new level of rent will generally be based on the market value which will be negotiated between appropriately qualified representatives of each party. In some Agreements rents are charged by reference to a formula such as CPI. In either situation, there is a question as to whether reference to the Executive Member for a decision adds value. Also, specific problems occur when rent reviews are referred for determination under a dispute resolution process, as there is a strict timetable to comply with and delay can compromise the County Council's position. In all the circumstances, it is considered that there is merit in removing the threshold in relation to matters associated with contractual commitments in existing contracts, thus giving the Director the authority to deal appropriately and quickly.

Consultation and Equalities

22. An Equality Impact Assessment has been undertaken and no impacts have been identified in relation to the proposed decision which deals only with general delegations for land and asset transactions and not specific decisions relating to individual assets, projects or programmes.
23. Equality impacts will be appropriately assessed for any individual decision or transaction undertaken within the general officer delegations set out in this report.

Climate Change Impact Assessments

24. Hampshire County Council utilises two decision-making tools to assess the carbon emissions and resilience of its projects and decisions. These tools

provide a clear, robust, and transparent way of assessing how projects, policies and initiatives contribute towards the County Council's climate change targets of being carbon neutral and resilient to the impacts of a 2°C temperature rise by 2050. This process ensures that climate change considerations are built into everything the Authority does.

25. The carbon mitigation tool and climate change adaptation tool are not applicable to this decision because the report deals with general delegations for estates management activities, rather than decisions relating to specific assets, projects or programmes and therefore does not have any impact on climate change.
26. Climate change impacts will be appropriately assessed for any individual decision or transaction undertaken within the general officer delegations set out in this report.

Conclusions

27. It is timely to review the existing delegations and authorisations relating to the estates management and rural estate functions within Universal Services. It is considered that the proposals set out in the report and summarised at Appendix A will consolidate and update the delegations and authorisations to make them more fit for purpose and allow the estates management and rural estate functions to operate in an effective and efficient way.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	yes
People in Hampshire enjoy being part of strong, inclusive communities:	yes

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

- 2.1. An Equality Impact Assessment has been undertaken and no impacts have been identified in relation to the proposed decision which deals only with general delegations for land and asset transactions and not specific decisions relating to individual assets, projects or programmes.

Appendix A – Financial Thresholds for delegation to the Director of Universal Services

	Delegation	Capital Limit	Revenue Limit
Land and Property acquisitions	The acquisition of any property which is required to implement projects in the approved capital programme, or which has been otherwise specifically approved, including the settlement of all terms.	£250,000 (as existing)	n/a
Land and Property disposals	The marketing and disposal of any property which is surplus to the requirements of the County Council, including the settlement of all terms.	£500,000 (increase from £250,000)	n/a
Leases and other Agreements	(a) The <i>granting</i> of leases, tenancies, licences, easements, wayleaves and other Agreements which are appropriate for the effective operation of the County Council's property estate including the settlement of all terms.	£500,000	£50,000 per annum with a maximum cumulative value of £500,000 over the initial term (increase from £25,000 per annum)
	(b) The <i>taking</i> of leases, tenancies, licences, easements, wayleaves or other agreements which are required for the effective operation of the County Council's property estate including the settlement of all terms.	Maximum cumulative value of £500,000 over the initial term	£25,000 per annum (as existing) with a maximum cumulative value of £500,000 over the initial term.
Asset management	The exercise of all tasks associated with the effective management of the property estate including, but not limited to, rent reviews, the setting and collecting or paying of service charges and other recoverable costs, the seeking or granting of consents for assignment, subletting or alterations, terminating Agreements, implementing break clauses, serving of Notices, lease variations, restrictive covenant variations or removal, the appropriation of property from one purpose to another, entering into Section 106 Agreements (as land owner only, not in a regulatory capacity), dilapidations claims under leases, Party Wall Act Agreements, challenging and agreeing business rates and council tax assessments, and including the settlement of all terms;	£500,000 for capital receipts (increase from £250,000) and £250,000 for capital expenditure (as existing)	£50,000 per annum with a maximum cumulative value of £500,000 over the initial term (increase from £25,000 per annum) or no limit where the transaction relates to a contractual commitment under an existing agreement (currently £25,000 per annum)

Valuations	The preparation of valuations for all purposes including for the asset register	n/a	n/a
Compulsory purchase and compensation	the acceptance of any valid blight or purchase notices, and the settlement of valid claims for compensation associated with any County Council projects including home loss payments, disturbance payments, advance payments and any other valid claims.	£250,000 for capital expenditure where no separate approval exists (as existing)	n/a
<p>All delegations involving a capital spend are to be exercised in consultation with the Executive Member and Chief Financial Officer, or their representative, in accordance with Financial Regulations and any other guidance issued by the Chief Financial Officer.</p> <p>All delegations involving a revenue spend are to be exercised in consultation with the Chief Financial Officer, or their representative, in accordance with Financial Regulations and any other guidance issued by the Chief Financial Officer, with the exception of delegations relating to contractual commitments under existing agreements where the financial impacts are within the original approved spend in relation to the relevant agreement.</p>			

