

# Land and Property Disposals Policy

2019 – 2022

## Document control

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<b>Responsible Executive Director</b>	Executive Director – Property
<b>Author</b>	Executive Directors Team
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1	Jan 19	First version
2	April 21	New format

## 1. **Introduction**

Livv Housing Group aims to maintain the highest standard of probity and accountability in all financial transactions, including the disposal of land and property. Land and property will not normally be disposed of by the Group, unless it falls under the definition of 'permitted disposals' (for example, a property sold under a shared ownership lease) referred to in section 9 of this policy document.

However, there may be circumstances where the Group will consider disposing of land or property where there is a specific operational driver to do so. These circumstances are covered in section 4 of this policy.

The main companies that will be disposing of Land and Property assets will be Livv Housing Group and Livv Homes. These companies being the main two entities which own and manage land and property assets. However, the principles of this policy will apply across all Group companies which own land and property.

As a registered provider of social housing, Livv Housing Group will seek to meet all relevant legislation and standards set by its Regulator (The Regulator of Social Housing or any successor body) in the application of this disposals policy. Where required, notification will be made to the Regulator in relation to a disposal.

As a community benefits society with charitable objectives, we will also have due regard to our charitable objects and the requirements of charity law when making disposals.

Where land and property is intended to be disposed of, we will always seek legal advice to support any transaction.

## 2. **Scope**

The implementation and scope of the policy applies and is applicable to:

Livv Housing Group	X
Livv Homes	
Livv Maintenance	
First Ark Social Investment (Operating as Livv Investment)	
All entities	

## 3. **Compliance**

The policy is in place in order to support:

Regulatory Compliance, in particular the: <ul style="list-style-type: none"><li>• National Regulator of Social Housing – Notifications of disposals</li><li>• NROSH+ - Notification of disposals form</li><li>• Statistical Date Return requirements</li></ul>	X
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<ul style="list-style-type: none"> <li>Homes England – Capital Funding Guide: Chapter 7 (Disposals Proceed Fund and Recycled Capital Grant Fund)</li> </ul>	
Legislative Compliance, in particular the: <ul style="list-style-type: none"> <li>Housing and Regeneration Act 2008 – Sections 176 and 275</li> <li>Housing and Planning Act 2016 – Sections 92 – 94 and schedule 4 (enacted 6/4/17)</li> </ul>	X
Best Practice	

#### 4. **Policy Statement**

This policy only considers disposals of land and property assets.

Other related policies include:

- Right to Buy/Acquire Policy
- Shared Ownership Policy
- Disposal of Fixed Assets policy

#### **Disposal of Land and Property**

This policy is a formal approach to disposals, as part of the Group’s overall approach to asset management. It will assist the Group in making best use of its resources, by rationalising or disposing of surplus or under-performing assets or assets that have a beneficial strategic use.

The policy therefore involves four elements:

- Identifying and declaring assets as surplus or having a more appropriate strategic use
- Determination of the method of disposal
- Managing the asset prior to its disposal
- Formal disposal of the asset and recording the transaction

#### **Definition of Surplus Land or Property**

Property or Land can be regarded as being surplus if it meets one or more of the following criteria:

- It makes no contribution to the delivery of the Group’s services or strategic objectives (either directly or indirectly), nor generates income, or requires significant additional resources to be expended on it with little chance of any future return
- The land or property has a history of, or attracts, anti-social behaviour or significant complaints due to its condition or structural integrity.
- The land or property impacts on the Group’s ability to meet its Health and Safety obligations
- An alternative site has been identified which would achieve a more cost effective delivery of services and the existing site has no potential for future alternative service delivery or regeneration purposes

### Definition of Underperforming Property:

Property can be underperforming if it meets one or more of the following characteristics:

- The property is vacant and likely to remain vacant for some time
- The investment requirements in the property exceed the income that is likely to be received over a long-period (negative or declining Net Present Value)
- The beneficial use or financial return (in terms of both revenue and capital growth) generated from the property is below that which could be achieved from an alternative use, or from a disposal
- The property is causing or has the potential to cause significant social, environmental or reputational detriment if it continues to be owned and managed by the Group

### Definition of Disposal

A disposal:

- Is the transfer of a freehold or a leasehold interest to another Group company or a third party, surrender of a lease or assignment of a lease to a third party for the payment of a premium
- May include the grant of an option to lease or purchase the freehold; lease disposals may also arise where no premium is involved.
- May include provision of an easement or wayleave (or similar binding legal agreement) to a statutory undertaker (please also see the definition of permitted disposals) or in favour of a third party

## **Identification and declaring assets and land as surplus**

### Identification Process

The process for identifying surplus or underperforming land and property is likely to include:

- Options Appraisal – derived as a consequence of evaluating the financial, social and environmental performance of an asset. Please see guidance on Options Appraisal.
- Specific Regeneration schemes – these will normally arise as part of an Options Appraisal process.
- Departments within the Group identifying specific areas of land or property which conform with the definition of surplus or underperforming property above.
- Land or property that has been proposed as meeting alternative strategic objectives.
- Approaches from third parties e.g. developers, adjoining owners etc.

Property or land will be determined as suitable for disposal if it meets all of the following criteria:

- That it meets the definition of surplus or underperforming property; or
- That the Investment Appraisal Panel considers that the case has been proven for it to meet an alternative strategic use

- It has no potential for future strategic or regeneration/redevelopment purposes (including non-affordable housing) based on current strategy and plans
- Irrespective of improvement, it would fail to meet aspirations of current or future tenants and in particular fails to meet the minimum standards required by the Regulator
- The net income generated from the site/property is below that which could be achieved from disposing of the site and investing the capital receipt/proceeds in an alternative use

Properties may also be declared as surplus if they:

- Demonstrate a history of expensive or uneconomic repairs
- They have become increasingly problematic to let

### Property Considerations

Options appraisals and reports to the Investment Appraisal Panel should include:

- The reactive repairs history of the property
- The likely future planned investment requirements, including where feasible a Net Present Value calculation over a minimum of 30 years, including the anticipated lifetime of key components
- A formal valuation, where relevant
- A description of the property condition, including the condition of common areas, where it compromises the integrity of the building.
- The Property Compliance status of the premises and the provision and integrity of communal services (fire safety, water, gas, electricity and telecommunications) serving the property
- The energy rating of the property – in particular the efficiency of existing or replacement heating systems, insulation standards and glazing which would contribute to fuel economy issues
- Where there are likely to be, in the foreseeable future, extensive, disruptive or expensive common works.

### Neighbourhood Management Considerations

Reports to the Investment Appraisal Panel should also include, the current and likely future demand for properties of that type or configuration in the area concerned. Factors which should be considered are:

- The likelihood and possibility of future tenancies being unsustainable
- Wider estate management issues and considerations.
- Current and future tenant aspirations
- Economic considerations within the area in which individual land or properties are located
- Historic void levels and re-let times

### Financial Implications

- Anticipated maintenance and improvement costs – particularly in the subsequent five year period
- Rent levels and ongoing affordability (where rent levels are too high to be affordable, or too low to meet the ongoing maintenance requirements)
- The outstanding debt on the individual property
- Any outstanding public subsidy on the property
- Whether there is a charge on the property in favour of the Group's funders

Full details of the considerations associated with Options Appraisal, are identified in the Options Appraisal Process

### Identification of Land or Assets which meet alternative strategic objectives

As referred to in section 2 above, there may be land and assets in the Group's ownership which may be disposed of to further the Group's strategic objectives. In this circumstance, the Investment Appraisal Panel will identify whether the proposal has merit and ultimately whether the disposal should be reported to the relevant Board for approval as indicated in the delegated authorities outlined within the financial regulations.

Any disposals involving land or assets being disposed of by a charity to a non-charity, or which involve tenanted properties, shall be brought to the Board for approval.

Proposals should include:

- The strategic objective that the proposal will meet
- Why the proposal's objective cannot be met by the use of other land or property
- The financial or reputational benefit to the Group
- Any due-diligence undertaken (for example, the identification of covenants etc. which may prevent the use of the land/property for any other purpose)
- The relative advantages and disadvantages of other options (including retaining the property).

### **Options and Methods of Disposal**

#### Methods of Disposal

The expectation of this policy is that where a disposal is proposed, the recommended method of disposal forms part of the evidence for consideration. Where possible, all disposals should seek to maximise either the financial consideration received by the Group or meet other agreed strategic objectives.

The method for the disposal of assets, including those where multiple offers and disposal routes are under consideration, will be assessed and determined on a case by case basis, therefore.

All issues relating to the land or property, including value, sustainability, social, environmental and economic benefit and legal issues and agreements, will need to be taken into account when determining the method of disposal.

The table below is not meant to be an exhaustive list of the methods of disposal of the Group's land and property assets, however, the majority of proposed disposals will be funnelled through the Investment Appraisal Panel, for evaluation, before being put before the relevant Board, for approval.

The delegated Authority to proceed with disposals are reflected under the roles and responsibilities section of the policy or will be referred to the financial regulations where appropriate.

Land and property assets can be disposed of by a variety of methods which may include:

- Disposal to an individual, by private treaty
- Disposal at Auction
- Disposal to a developer, contractor or as part of a land assembly
- Disposal by transfer to another part of the Group

### **Financial criteria for disposals**

All proposals for disposal should include a financial evaluation of the proposal, which may take several forms. In most cases, where property disposal is considered, a Net Present Value calculation will be undertaken. This will be undertaken using the 'Asset Performance Evaluation Model' balanced alongside the likely capital receipt and other non-financial considerations and previous investments made in the property.

Where Land disposal is proposed a valuation of the site for its existing or proposed future use will be sought and used to determine the sales price. Details will be included in the relevant reports to IAP and subsequently Board.

Finally, where an alternative strategic objective is identified for the land and/or property, it is possible that a lower financial consideration may be approved, if the objective outweighs the financial consideration. Any financial consideration must be aligned to the stated objects of Livv Housing Group, as defined within its Rules in place at the time of the transaction. Any proposal to dispose of Livv Housing Group property to a non-charity shall, except in exceptional circumstances will be approved by the Board and be at full market value.

### **Managing Assets Prior to Disposal**

#### Formal Decision-Making Process

This policy does not seek to identify a matrix of delegated authority to approve disposals. If delegated authority to complete disposals is proposed, the Group Financial Regulations will contain the details of such.

The presumption of this policy is that all land and property disposals (save for those identified as permitted disposals) will be reported to the relevant Board, for approval, prior to the transaction taking place (subject to the delegated authorities outlined within the financial regulations).

#### General and Specific Consent Requirements

The Housing and Planning Act 2016 removed the need to obtain consent under Section 133 of the Housing Act 1988 and Section 172 of the Housing and Regeneration Act 2008. However, this has been replaced with a requirement to notify the Regulator of certain disposals, either as a 'priority notification (within 3 weeks)' or as part of a quarterly notification.

**Livv Housing Group and all officers seeking to dispose of land or property under this policy will be provided training to assess the notification requirement and will, where appropriate, seek specific legal advice, once a disposal has been agreed.**

#### Appeals

There will be no appeals process for customers wishing to purchase land and property from the Group. There is no obligation (save for obligations identified under Right to Buy/Acquire legislation, which is not specifically covered by this policy) for the Group to dispose of any of its assets and the decision under this policy will be final.

#### **The Formal Disposal of Assets or Land**

##### Valuations

A valuation of the property or land for disposal will be undertaken at the earliest opportunity in the process by a qualified member of the Royal Institution of Chartered Surveyors.

##### Costs for Land Disposal

Our costs in dealing with the disposal shall be recouped, where possible, as part of the transaction. At the very minimum, each party shall bear its own costs.

##### Mandatory Disposals

In some circumstances, a disposal under this policy may be mandatory. For example, where a development scheme requires a wayleave or easement to be put in place or a section agreement needs to be agreed with a Local Authority or statutory undertaker.

The purpose of this policy is not to prevent these 'mandatory' arrangements being put in place or to seek Board approval to enter these arrangements. However, all such disposals should be identified on the disposals register.

Examples of mandatory disposals are:

- An easement or wayleave in favour of a statutory undertaker or service provider, which will enable current or future residents to benefit from those services
- A section agreement (Section 38 and 278 agreements, Section 104 agreements etc.) relating to a development scheme

#### Permitted Disposals

As referred to in section 3 of this policy there are 'permitted disposals' of land and property that do not fall into the auspices of this policy. They include:

- Properties to be sold by a Group company which have been developed for Low Cost Home Ownership (see shared ownership sales policy and process), which have been approved by a relevant Board
- Properties that need to be disposed of under the Right to Buy or Right to Acquire legislation (Right to Buy and Right to Acquire policy and process)
- Properties that are being developed for 'Outright Sale', which have been approved by the relevant Board

#### **The role of the Investment Appraisal Panel**

The Investment Appraisal Panel is an officer led panel, with an agreed term of reference. The Investment Appraisal Panel shall recommend its decision in respect of disposals to the relevant Board.

#### **Disposals and Asset and Liabilities Register**

The Group will maintain a 'Disposals Register' as part of its Assets and Liabilities Register. This will include all disposals made after the date of adoption of this policy.

#### **Disposals Proceeds**

Proceeds of all disposals shall be used in accordance with the objects of the relevant Group Member'

### **5. Policy Outcomes**

The objective of this policy is to ensure that the Group has a robust mechanism to evaluate disposal proposals, conforms with the requirements of charity law and the Regulator (where appropriate) and where disposal is agreed, the Group derives the appropriate value from the transaction and records the disposal appropriately.

### **6. Monitoring and Review**

In order to monitor the implementation of this policy, a number of key performance indicators are in place.

As part of the annual home standard return we also confirm to the Regulator for Social Housing on an annual basis that the repairs and maintenance service we provide is in line with the required standard.

In line with the Group's Policy Framework, this policy is scheduled to be reviewed every 3 years. Unless due to a change in Government legislation or regulatory requirements, then the review period will be brought forward in order to ensure compliance.

## 7. **Roles and Responsibilities**

The Policy Framework documents the approval routes for all Policies & Strategies, however under this policy the following teams/employees have the following responsibilities.

Executive Director's Team (EDT)	EDT have responsibility for final sign off of the policy
Executive Director – Property Bulk Asset Disposal – Disposal of Land over 0.5 hectares or 5 properties	A proposal to dispose of land for development, to a third party – report to Investment Appraisal Panel (IAP) and then to relevant Board for approval.
Executive Director – Property Disposal of vacant individual Apartment/Flats where Block responsibility is managed by The Group	Options appraisal process, yields proposal to sell a flat on the open market, rather than invest in it – IAP, then delegated authority to proceed, under Financial Regulations
Executive Director – Property Small land parcel Transfer – under 0.5 hectares	Approval to sell land abutting garden of Right to Buy property – IAP approval and delegated authority to proceed, under Financial Regulations
Executive Director – Property Demolition of under 5 properties	Options appraisal suggests demolition is only beneficial outcome – IAP then delegated approval to proceed, under Financial Regulations
Executive Director – Property Individual Property Disposals – 3 <sup>rd</sup> Party Requests	Individual property purchase request – not normally approved – IAP with strategic link
Executive Director – Customer Insight Long Term (over 7 years) Lease to 3 <sup>rd</sup> party	Partnership with a specialist housing provider to provide properties for persons with special needs – IAP to assess merits of proposal and then to relevant Board for approval.

Executive Director – Finance, Risk & Performance Tenure Conversion or disposal to other group entity	Disposal of land from Livv Housing Group to Livv Homes, for development of property for market sale – as part of Board report to Livv Housing Group/Livv Homes on development scheme
Director – Development Statutory undertakers disposal – e.g. section agreements, easements/wayleaves (development)	Permitted disposals
Director – Assets Licence to occupy whole property to carry out work where part or all of property is leased or under licence	Not a disposal – terms of the license should be noted on the disposals register
Director – Assets Licence to occupy part property to carry out work where part or all of property is leased under licence	Not a disposal – terms of the license should be noted on the disposals register
Director – Assets Easements and Wayleave Agreements (non-development)	Assets receive application from statutory undertaker to lay electricity cable under Livv Housing Group land – IAP for approval (cannot be unreasonably withheld)
Director – Assets Public Open Spaces & Play areas	Disposal can only be considered in line with statutory requirements

## 8. Equality & Diversity

Due to the nature of the policy, what it is aiming to achieve and no impact the implementation of the policy will have on employees/customers. An equality analysis is not required to be completed.