



Llywodraeth Cymru
Welsh Government

Guidance

Guidance for the Acquisition of Property Assets by Welsh Government

Prepared on behalf of the Corporate Assets
Management Strategy (CAMS) Group

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Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

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1. Introduction

The programme for Government, *'Taking Wales Forward'* sets out the ambitions of the Welsh Government (WG) up until 2021. *'Prosperity for All'* sets out how these ambitions will be delivered, including a commitment to maximising resources and efficiencies to reinvest in front line services. The critical challenge of balancing the financial stress arising from 11% real term budget cuts since 2010-11, against policy ambitions and the legal obligations of the Wellbeing of Future Generations Act 2015, mean that the effectiveness and efficiency of the management of over £330m of property assets has never been more important.

A strategic approach to acquiring and managing property assets supports the potential to contribute to a number of cross cutting policy themes. Economic, environmental and social aims can be achieved through developing business cases that embed the five ways of working and address the relative strengths and weaknesses of a proposed acquisition against the seven wellbeing goals.

The five year Corporate Asset Management Strategy (CAMS) was published in 2016 to support *'Taking Wales Forward'* and adopts a more strategic approach to best practice in the acquisition, management and disposal of property assets. The CAMS group provide strategic oversight and guidance in respect of land and building assets in which the Welsh Ministers hold a legal interest.

The core principles established within the strategy are that:

there will be centralised resources to provide strategic oversight, scrutiny, guidance and assurance

assets will only be held or acquired necessary to delivering Government policy and priorities

each Department will produce and maintain a D-AMP, conduct an annual review of all assets held against current priorities and categorise each against one of three standard corporate definitions –core inflexible, core flexible and non-core surplus, and

assets categorised as non-core surplus will be actively disposed of in accordance with best practice.

Best practice guidance on disposals was published in December 2018.

1.1 This Document

This document has been prepared to support WG officials to demonstrate best value from the acquisition of property assets.

Departmental Asset Plans (D-AMPs) set out the objectives of the respective WG property portfolios, including governance arrangements and how they meet their Ministerial priorities.

This guidance is intended to ensure that a common and consistent approach is adopted across WG, and focusses on the acquisition of property assets in the name of Welsh Ministers. It sets out the principles and key actions needed to demonstrate best practice.

Acquisitions by Compulsory Purchase are governed by statutory processes and are outside of the scope of this guidance.

2. Demonstrating Value

The principles of how to demonstrate value for money from the acquisition and holding of assets are set out in 'Managing Welsh Public Money' and HM Treasury Green Book.¹

Historically, WG has acquired assets on an ad-hoc basis, notably through the absorption of other bodies but are also acquired in response to business support activities and strategic infrastructure projects. Property assets are held by WG to undertake both corporate activities and to support the delivery of wider policy ambitions.

Prosperity for All emphasises opportunity and equality, health and environment, wellbeing, skills and ambition, and connectivity, as key principles underpinning value. This overarching framework is supported and complemented by property specific policy, regulation and Ministerial guidance.

Examples include:

Local Development Plans, Technical Advice Notes and the National Development Framework support a strategic approach, local priorities and identify sites allocated for housing and/or employment.

Housing and Planning Policy and Ministerial guidance² promote placemaking, housing quality, low carbon and affordable homes.

Although best practice principles follow HM Treasury Five Case Model, the scale and scope of the business plan for acquisitions should be proportionate to the individual project and the operational and reputational risk.

Approvals for acquisitions should follow Departmental governance and delegated authority.

Officials should evidence the following key stages of the acquisition process:



¹ <https://gov.wales/managing-welsh-public-money>; <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

² Letter 8 July 2019 from Minister for Housing and Local Government to Heads of Planning and Heads of Housing

2.1 Strategic and Business Needs Assessment

The acquisition of interests in property assets should be underpinned by a clear justification for the strategic and business need to acquire an interest in a property asset. The business needs assessment will set out those factors which are essential and/or desirable and will inform the property search and options appraisal.

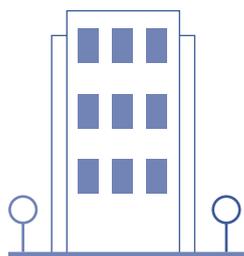
Matters to be included in the statement of need include:

Size:

Appropriate to business need.
Occupation ratio to align with published benchmarks.
Supported by client business plan where linked to business support.

Tenure:

How best suited to business needs for immediate and future: Freehold – Leasehold – New development.
To reflect exit strategy for Welsh Government.



Premises Specification:

Accommodation, services and facilities to meet business requirements.
Statutory requirements e.g. HSE, Building Regulations.
Specific user requirements.
Policy and regulatory requirements: e.g. Wellbeing of Future Generations Act: equalities, environmental, social sustainability.

Location:

Evidence of appraisal of alternative locations.
Clear business justification for choice of location.
Links to strategic and policy objectives.

Costs:

HM Treasury compliant appraisal of alternative options.
Source of funding: Capital and Revenue.
Holding and Management costs.

This information will inform the property search.

Given the inflexible nature of many property assets, the statement of business need should identify the extent of any flexibilities, for instance in size or location. The weighting attached to each consideration will be dependent upon the underlying rationale for the acquisition.

The Public Accounts Committee report on the WG's relationship with Pinewood³ highlighted the increased risks of not understanding specific occupier's business requirements when entering into agreements that include property assets. The longer term risks associated with investing in non-standard or bespoke properties should be accounted for in the decision to acquire.

³ February 2019

3. Property Search

This Strategic and Business Needs Assessment sets the parameters for a property search. Public sector asset collaboration is a Ministerial priority: opportunities within the existing public estate should be fully explored before resorting to the private sector.

3.1 Public Estate

The principles within Managing Welsh Public Money emphasise collaboration as a mechanism for delivering value for money. Initial property searches should therefore focus on existing property within the WG portfolio and the wider public estate, in preference to new acquisitions.

A number of resources are available from Ystadau Cymru: <https://gweddill.gov.wales/topics/improvingservices/assets-cymru/?lang=en>

The Estates Co-ordination and Land Transfer Protocol⁴ provides best practice guidance on the valuation and transfer of assets between public sector bodies.

3.2 Open Market

Where it is established that there are no suitable property holdings in the public sector, good practice would be to procure external advisers to undertake the property search. The search should identify a number of potential options from which a short list can be developed and appraised as part of a business case for the acquisition project.

Appointment of professional advisers should be in accordance with WG procurement policy.⁵

⁴ <https://gweddill.gov.wales/topics/improvingservices/assets-cymru/resources/estate-coordination-land-transfer-protocol/?lang=en> (2020 version due to be published on this link mid 2020)

⁵ <https://intranet/english/money/buying-goods-services/Procurement/Pages/Welcome.aspx>

4. Options Appraisal

Good practice is that business cases should include a do nothing/minimum option and address all of the following:

the strategic case

- how well do the options fit strategic aims?

the economic case

- what are the capital and revenue costs over the life of the investment?

the commercial case

- is the option viable and commercially achievable?

the financial case

- is the option affordable?

the management case

- how will the option be delivered, managed and evaluated?

The degree of detail that should be included in a business case will depend upon the scope and scale of the investment, however all short listed options should be part of the appraisal.⁶ Economic and social benefits, risks and costs should be included and considerations are likely to include qualitative as well as quantitative data.

Monetary costs should be in 'net present cost' terms and include initial capital costs (for example acquisition, fees, fit out, furniture); revenue costs over the anticipated lifespan of the asset (such as running and cyclical refurbishment costs) and the residual value (dilapidations costs for leasehold properties). The assumptions underlying the economic appraisals should be clearly set out and applied consistently across the options. HM Treasury advises on the appropriate discount rate to be applied.

The options appraisal should address those key success factors identified in the needs assessment. Some of these are likely to be difficult to quantify, but in such circumstances the options appraisal should assess the relative strengths and weaknesses of these factors against a weighted scoring methodology. The weighting should follow the relative importance of the elements being compared.

It is advisable that inspections of the properties is undertaken before or during the appraisal process and a full structural survey be considered where inspection suggests there may be significant capital costs required to meet identified business need (further details are set out at 5.2.2).

The estimated costs of repair or adaptation should be included in the assessment of net present value within the options appraisal.

The options should consider all relevant procurement routes, which might include existing freehold or leasehold properties as well as new-build.

A preferred option should emerge after the options appraisal, following which a number of actions will be necessary prior to completion of the acquisition.

⁶ Welsh Government promotes the use of the Five Case Business Model for projects: guidance can be found at: <https://gov.wales/better-business-cases-investment-decision-making-framework>

5. Acquisition

The project officer should follow the decision making and governance processes of their respective Department. Once the business plan and appraisal have been completed and a preferred option approved, a number of matters will need to be addressed before the acquisition can be completed.

5.1 Negotiations

Negotiation of terms should commence after the appraisal has identified the preferred option. Where time is critical it may also be prudent to commence negotiations on a fall-back option. Heads of terms should be clear and comprehensive in order to facilitate a smooth passage to completion.

5.1.1 Acquisitions from other Public Bodies

The Estates Co-ordination and Land Transfer Protocol sets out the process for transferring assets between public bodies. The principle basis of valuation for an acquisition by Welsh Ministers will be 'market value' in accordance with the Royal Institution of Chartered Surveyors (RICS) Professional Standards.

Although transfers can take place at less than market value, Local Authorities have legal obligations that require them to demonstrate that the proceeds of any disposal align with 'best consideration'. In most instances, transfers at Market Value between public bodies would be evidenced by an independent valuation by an RICS registered valuer.

5.1.2 Acquisitions other than from Public Bodies

Where property is being acquired by a public body in the open market, the transaction is likely to come under particular scrutiny. In addition to there being a sound business reason underpinning the acquisition, the project will need to demonstrate that the procurement of a property asset follows general principles of transparency and equality and delivers value for money.

Use of external advisers in the property search will assist in demonstrating this.

5.2 Due Diligence

Any acquisition will require due diligence before a legally binding contract is entered into. This will include, but not necessarily be restricted to: valuation, surveys, planning and legal advice.

The RICS has issued a professional statement to members on 'Countering bribery, corruption, money laundering and terrorist financing'.⁷ This includes mandatory requirements and guidance to members and regulated firms. Officials should be mindful that only regulated firms are bound by the standard and would undertake due diligence in respect of their clients.

⁷ <https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/standards-of-conduct/countering-money-laundering-1st-edition-rics.pdf>

WG is at particular risk of reputational damage and it is recommended that appropriate due diligence is undertaken on the identity of vendors and landlords to mitigate the impact of such a risk.

These processes can take place simultaneously, but the project lead should take an active role in managing risk to save wasting resources should any potential threats to the project arise. Due diligence should include a written risk assessment, the extent and detail of which should be proportionate to the purpose for the acquisition and the value of the asset being acquired.

Procurement frameworks for professional advisers are available and should be used unless specialist or local expertise is required.

5.2.1 Valuation

Acquisition of assets by public bodies, in particular the price, will be open to scrutiny. Where land is transferred between public bodies, the Estates Co-ordination and Land Transfer Protocol sets out the preferred approach.

Where acquisition is negotiated in the open market, independent professional verification of the proposed purchase price will be required in all cases. This should be undertaken by a Registered Valuer (RICS).

5.2.2 Building and other Surveys

Building surveys should be considered for all acquisitions of existing buildings, and clear justification recorded where none is commissioned. Failure to undertake a survey could lead to undue risk to the delivery and cost of the project, especially where alterations are required to meet particular user requirements.

Where leasehold interests are being acquired at market rent, it would be prudent to incorporate a schedule of condition in order to limit future liability for dilapidations at the end of a lease. If a rent-free period is negotiated to reflect works to bring the property up to a specified standard, then this should be clearly documented for reference at the end of the lease.

Listed buildings and buildings within conservation areas pose a higher than average risk and will usually require specialist advice.

For land and sites, information required will vary dependent upon the nature of the asset. However, an understanding of the site condition will require investigative surveys that may include expert information on general ground conditions, historic mineral extraction, contamination and flooding risks.

5.2.3 Planning

The planning history and potential are important considerations in the acquisition of property assets and can have serious implications for delivery of the project, especially where alterations are planned. Routine planning enquires can be incorporated into the legal process, but additional diligence will be required for listed buildings, properties close to scheduled monuments or within conservation areas.

5.2.4 Legal

WG commercial property lawyers provide legal advice in connection with acquisitions.

The legal process will involve detailed investigations on title and ownership. Where new information comes to light during this process, it would be prudent to revisit the valuation to ensure that the issues identified do not adversely affect the negotiated value.

5.3 Finance

The business case for the acquisition should not only include an appraisal of the relative costs of the options in terms of net present value, but should include details of the sources of capital for purchase, and revenue for the ongoing management and maintenance of the asset.

6. Contract and Conveyance

WG property holding departments have their own governance arrangements for property acquisitions and the required authority for acquisition should be clearly documented before contracts are exchanged.

7. Post Procurement

7.1 ePIMS and Asset Management

Details of WG property assets should be recorded/updated on ePIMS, the departmental asset management register and uploaded onto any relevant facilities management systems.

Where appropriate, an asset valuation should be commissioned and the Departmental Asset Valuation updated.

7.2 IFRS 16

The introduction of IFRS means that leasehold interests will no longer be treated as off balance sheet for budgeting purposes. As there is a value attached to the right to use the asset, finance teams will need to be provided with details of the lease term and rent payable.

7.3 Project Appraisal and Monitoring

Post project appraisal assesses how well the project was developed and delivered and provide valuable information and lessons learned to take forward into other similar projects.

Regular reviews of asset management plans should be undertaken to ensure that the asset continues to meet business needs.

8. Further Assistance

Any queries on the application or interpretation of these Guidelines should be referred to PSG: CAMS – Yr Is-adran Tir/Land Division mailbox LandDivision.CAMS@gov.wales.

Land Division is also happy to advise on any specific points arising from any of the Guidance, including appointment of professional advisers, Statement of Business Need, Option Appraisal, preparation of the business case etc. or any novel or contentious matters.

The development of major infrastructure and asset investment projects should enlist guidance from the Programme and Project Management Centre of Expertise and the Integrated Assurance Hub (PPM@gov.wales). Project/Programme Reviews should also be incorporated into business planning and delivery.