

**PROPERTY PROCEDURE RULES**

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# **North Yorkshire Police and Crime Commissioner**

## **Property Procedure Rules**

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**PROPERTY PROCEDURE RULES**

*These Rules constitute the Police and Crime Commissioner's Standing Orders in relation to property contracts and the redeployment of property.*

**1.0 INTERPRETATION**

**1.1** These terms will have the following meanings for the purposes of the Property Procedure Rules:-

<b>Acquisition</b>	The acquisition of Property by the PCC, including the extension of an existing lease (other than by exercise of an option to renew) and the surrender or assignment of a lease to the PCC
<b>PCC</b>	North Yorkshire Police and Crime Commissioner
<b>Chief Officer</b>	Chief Constable Deputy Chief Constable Assistant Chief Constable Commissioners Chief Finance Officer Chief Constables Chief Finance Officer
<b>Chief Executive Officer</b>	The Chief Executive Officer of the PCC
<b>Disposal</b>	The disposal of Property by the PCC, including the surrender or assignment of a lease by the PCC
<b>Financial Regulations</b>	Form part of the overall control framework within which the PCC operates
<b>Head of Legal Services</b>	Solicitor designated as such and retained by the PCC to represent the interests of the office of Chief Constable and the PCC as appropriate
<b>Officer</b>	An employee of the PCC or Chief Constable or other authorised agent
<b>Property</b>	Any estate or interest in land and/or buildings
<b>Property Contract</b>	A contract which creates an estate or interest in land or buildings including (but not limited to) transfers, leases, easements, tenancy agreements and licences

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<b>Redeployment</b>	The use of Property by the PCC for a purpose different to that for which it has hitherto been used
<b>Surveyor</b>	A professionally qualified surveyor or valuer employed or otherwise retained by the PCC to provide expert advice on Property Contracts
<b>Tenderer</b>	A person who has expressed an interest in tendering for a Property Contract or who has tendered for a Property Contract

**1.2** References in these Rules to:-

- (a) any legislation (e.g. Act of Parliament, Statutory Instrument, EU Directive) include a reference to any amendment or re-enactment of such legislation;
- (b) the singular include the plural and vice versa;
- (c) the masculine include the feminine and vice versa;
- (d) Chief Officers, either of the Chief Finance Officers and the Chief Executive Officer shall be taken to include such officers as are designated by those officers to undertake the duties and responsibilities set out in these Rules.
- (e) Reference to the Commissioner's Chief Finance Officer shall be construed as relating to any Officer designated by him/her to exercise the powers delegated to him/her by the PCC over property management.

**1.3** References in Rules 6.1, 7.2 and 8.1 to values for the purpose of the approvals which are necessary for Acquisitions, Disposals and Redeployments of Property are to the values estimated at the time the approval is given; any such approval is not invalidated by the fact that the actual Acquisition or Disposal figure differs from the estimated figure. The value of any transaction shall be taken to be the Surveyor's opinion as to the open market value as between willing parties.

**1.4** Where these Rules refer to approvals being sought or given for the Acquisition, Disposal or Redeployment of Property, such approval may relate to one particular Property or to a particular description or class of Property; but where it relates to more than one Property, the value shall be calculated as the aggregate value of all of the Property of that description or class.

**2. GENERAL**

**2.1** These Rules apply to all Property Contracts.

**2.2** The PCC has made Financial Regulations which shall be applied in conjunction with these Rules. The PCC has also agreed Regional Contract Regulations, but they do not apply to Property Contracts except so far as they relate to processes for inviting and receiving tenders (see 8.4.2 below).

**2.3** The Commissioner's Chief Finance Officer (in consultation with the Chief Executive Officer) shall regularly review the application and effect of these Regulations and shall

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propose such updated Regulations to the PCC as the Commissioner's Chief Finance Officer may consider appropriate

- 2.4 Property Contracts and documentation and correspondence relating to them shall be retained for the periods prescribed by the Force's and PCC Records Weeding Policy or, where the PCC retains an interest in the property in question, such contracts and associated documentation shall be retained indefinitely.
- 2.5 Every Officer shall comply with these rules unless a waiver is granted under paragraph 9.1. Failure to comply may lead to disciplinary action.
- 2.6 Each Chief Officer shall ensure that Officers and contractors working for the PCC, are aware of and comply with these Rules and the documents referred to in Rule 2.2.
- 2.7 The Commissioner's Chief Finance Officer and the Chief Constable's Chief Finance Officer shall be responsible for monitoring adherence to these Rules.
- 2.8 Except where otherwise provided in these Property Procedure Rules and with the exception of the right to buy and sell real property, the Commissioners Chief Finance Officer is authorised to exercise all powers, rights and duties in respect of real and personal property in the ownership of the Commissioner

**3.0 COMPLIANCE WITH LEGISLATION**

3.1 Every Property Contract shall comply with all relevant applicable legislation and government guidance including:-

- (a) EU Law
- (b) Acts of Parliament
- (c) Statutory Instruments

3.2 The Chief Executive Officer, in consultation as appropriate with the Head of Legal Services, shall ensure that the PCC has the legal power to enter into any Property Contract and that the PCC does not purport to enter into any such contract which is ultra vires.

**4.0 SIGNATURE/SEALING OF PROPERTY CONTRACTS**

4.1 No Property Contract shall be completed unless proper approval has been given in accordance with these Rules.

4.2 Subject to Rules 4.3 and 4.4, every Property Contract must be: -

- (a) where the law so requires, executed as a Deed by the Chief Executive Officer; or
- (b) signed by the Chief Executive Officer, or another officer authorised by the Chief Executive Officer

4.3 The Commissioner's Chief Finance Officer in consultation with the Head of Legal Services is authorised to sign licences provided that:-

- (a) the licence is for a period not exceeding one year; and

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- (b) the licence is in a form prepared or approved by the Chief Executive Officer or the Head of Legal Services.

**4.4** The Commissioner's Chief Finance Officer, after consultation with the Chief Executive Officer is authorised to enter into short-term leases for land, buildings and equipment in circumstances where:

- (a) a new lease is taken for a period of not more than 3 years and there are no implications for capital financing;
- (b) an existing lease needs extending for up to a period of 3 years and there are no implications for capital financing

**5.0 ROLE OF SURVEYOR**

**5.1** The Commissioner's Chief Finance Officer shall, whenever he considers it appropriate to do so, instruct a Surveyor to act on behalf of the PCC in connection with Property Contracts in accordance with these Rules.

**5.2** A Surveyor shall be instructed in accordance with 5.1 above whenever a property contract pertains to the acquisition or disposal of either a freehold interest or a leasehold interest of longer than 5 years, in property.

**6.0 ACQUISITIONS**

**6.1 Approval for Acquisitions**

**6.1.1** Whenever it is proposed that Property should be acquired by the PCC, the Commissioner's Chief Finance Officer is responsible for seeking the approval which is necessary in accordance with this Rule 6.1.

**6.1.2** No approval shall be sought or given for the Acquisition of any Property unless confirmation is received from the Commissioner's Chief Finance Officer that there is adequate budgetary provision for the Acquisition and any expenditure consequent upon the Acquisition.

**6.1.3** The Commissioner's Chief Finance Officer may approve any acquisition of Property where it is in accordance with the PCC Estates Strategy to do so, subject to 6.1.2 above;

**6.1.4** Any acquisition of property which is not in accordance with the Estates Strategy shall be approved by the PCC.

**Approval for Rent Reviews**

**6.1.5** The Commissioner's Chief Finance Officer, in consultation with the Head of Legal Services, may approve the completion of a rent review memorandum provided that the original lease included provisions for the rent review; in all other cases Rule 6.1.4 shall apply.

**Variation of Lease Terms**

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**6.1.6** The Commissioners Chief Finance Officer, in consultation with the Head of Legal Services, may approve any variation to the terms of an existing lease or licence, except that, if the variation would result in an increase to the rent or licence fee, Rule 6.1.4 shall apply.

**6.2 Terms of Acquisition**

**6.2.1** The Commissioner's Chief Finance Officer is responsible for determining the terms for the Acquisition of Property, and shall report such terms to The Head of Legal Services.

**6.2.2** The Head of Legal Services is responsible for preparing and completing the documentation for the Acquisition of Property in accordance with the terms referred to in Rule 6.2.1 subject to such further terms as the Chief Executive Officer, on the advice of the Head of Legal Services, considers appropriate in the best interests of the PCC.

**7.0 REDEPLOYMENT OF PROPERTY**

**7.1** As soon as a Chief Officer identifies the fact that a Property used by his/her Business Area is no longer required for its current use, the Chief Officer shall inform the Commissioner's Chief Finance Officer who shall thereupon enquire whether the Property is of use to any other Chief Officer in connection with the service(s) for which they are responsible.

**7.2 Approval for Redeployment**

**7.2.1** Whenever it is proposed that Property should be redeployed by the PCC, Chief Officers are responsible for seeking the approval which is necessary in accordance with this Rule 7.2.

**7.2.2** The Commissioner's Chief Finance Officer may approve any Redeployment of Property where it is in accordance with the PCC Estates Strategy to do so.

**7.2.3** Any redeployment of property which is not in accordance with the Estates Strategy shall be approved by the PCC.

**7.3 Terms of Redeployment**

**7.3.1** Once approval for Redeployment has been given, the Commissioner's Chief Finance Officer is responsible for arranging the Redeployment in accordance with either the Estates Strategy or the terms of approval from the PCC, whichever is appropriate.

**8.0 DISPOSALS**

**8.1 Approval for Disposals**

**8.1.1** Whenever it is proposed that Property should be disposed of by the PCC, the Commissioner's Chief Finance Officer is responsible for seeking the approval which is necessary in accordance with this Rule 8.1.

**8.1.2** The Commissioner's Chief Finance Officer may approve any disposal of Property where it is in accordance with the PCC's Estates Strategy to do so.

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**8.1.3** Any disposal of property which is not in accordance with the Estates Strategy shall be approved by the PCC.

**8.1.4** Where any property is to be disposed of by sale or by long lease (ie 7 years or longer) at an undervalue the approval of the PCC is required, and where the amount of the undervalue is more than £2,000,000 the Disposal may only proceed with the prior consent of the Secretary of State.

**External Consents to Disposal**

**8.1.5** The Commissioner's Chief Finance Officer is responsible for obtaining such external consents (if any) as are required for a Disposal.

**8.2 Terms of Disposal**

**8.2.1** The Commissioner's Chief Finance Officer (in consultation with the Head of Legal Services) is responsible for determining the terms for the Disposal of Property and shall report such terms to the Chief Executive Officer.

**8.2.2** The Head of Legal Services is responsible for preparing and completing the documentation for the Disposal of Property in accordance with the terms referred to in Rule 8.2.1 subject to any variations agreed with the Chief Executive Officer and subject also to such further terms as the Chief Executive Officer, on the advice of the Head of Legal Services considers appropriate in the best interests of the PCC.

**8.2.3** Except where approval has been obtained in accordance with Rule 8.1.4, The Commissioner's Chief Finance Officer shall ensure that whenever terms for a Disposal of a Property are being determined, the best consideration for the Disposal shall be obtained by the PCC pursuant to Section 123 of the Local Government Act 1972.

**8.3 Method of Disposal**

**8.3.1** The Commissioner's Chief Finance Officer shall determine whether or not a Surveyor should be engaged in accordance with section 5, to ensure that the most appropriate disposal process is used.

**8.3.2** The Surveyor's advice shall take account of all relevant factors relating to a Disposal including the following: -

- (a) the likely value of the Property;
- (b) the potential market for the Property;
- (c) the likelihood of obtaining alternative planning consents for the Property and their effect upon the valuation;
- (d) the costs of the Disposal process (including advertising and other marketing);
- (e) the time likely to elapse between offering the Property for Disposal and the projected completion date of the Disposal; and

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- (f) all other relevant factors.

**8.4 Disposals by Tender**

- 8.4.1** This Rule 8.4 applies to all Disposals of Property by tender whether the tender is subject to contract or is capable of immediate acceptance.
- 8.4.2** Invitation to Tender and Tender receipt will be in compliance of YaTH Regional Police and Crime Commissioner's Contract Regulations.

**Tender Evaluation**

- 8.4.3** Tenders shall be evaluated by the Commissioner's Chief Finance Officer in consultation with the Surveyor. The Commissioner's Chief Finance Officer shall accept the tender which offers the best consideration for the Property in accordance with Rule 8.2.3 above. The Commissioner's Chief Finance Officer shall ensure that the tender evaluation process is fair, and so far as consistent with the achievement of best consideration by the PCC, that the basis on which tenders are to be evaluated has been established before tenders are opened. If all of the tenders are not submitted on the same basis (for example, if some tenders are conditional on planning permission being granted for a particular use of the property), then the Commissioner's Chief Finance Officer and the Surveyor shall consult the Chief Executive Officer in relation to the evaluation of the bids, and a document will be produced by the Commissioner's Chief Finance Officer, setting out the reasoning which has been applied to determine which tender has been judged to offer the best consideration for the Property. The Chief Executive Officer shall be supplied with a copy of this document.

**Alterations to Tenders**

- 8.4.4** Tenders may not be altered by Tenderers after the tender closing date except where the Commissioner's Chief Finance Officer is satisfied that arithmetical errors having been inadvertently made by the Tenderer, the Tenderer can be invited to correct them.

**Post Tender Negotiations**

- 8.4.5** Post tender negotiation may be undertaken in accordance with the following conditions:-
- (a) where the Commissioner's Chief Finance Officer (where appropriate in consultation with the Chief Executive Officer) considers that added value may be obtained;
  - (b) the post tender negotiations are undertaken either with all Tenderers, or with such Tenderer(s) as the Commissioner's Chief Finance Officer considers it appropriate to invite having regard to the value of their tenders and any conditions attached to them;
  - (c) the post tender negotiations are conducted by a team comprising the Surveyor and suitably experienced Officers approved by the Commissioner's Chief Finance Officer and trained in post tender negotiations;



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- (d) a record of the negotiations and any added value obtained from them is kept by the Commissioner's Chief Finance Officer and a copy of that record is sent to the Chief Executive Officer.

any such added value obtained by the post tender negotiations is incorporated into the Property Contract with the successful Tenderer.

**9.0 EXCEPTIONS TO PROPERTY PROCEDURE RULES**

- 9.1** The Chief Executive Officer after consultation with the Commissioner's Chief Finance Officer may agree specific waivers to the Property Procedure Rules, other than Rules 6.1, 7.2 and 8.1.