

POLICY FOR THE DISPOSAL OF ASSETS

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1 Introduction

1.1 Purpose

It is University policy to ensure adherence to best practice in the Disposal of its Assets, and in controlling access thereto. The purpose of this policy is to set out the policy and procedures for the disposal of Assets and for the granting of access to Assets. The policy provides an organised and accountable method for the disposal of Assets maximising residual value and to protect the University from any conflict of interest that may arise, either potential or real, which may arise between University departments and any person or groups purchasing such Assets from the University.

1.2 Scope

1.2.1 To whom does the policy apply?

This policy applies to all Staff and Students of the University, and its subsidiaries, who have access to or use of Assets. Heads of Units who are disposing/granting access to Assets are responsible for ensuring that the process for sale or disposal/granting access to (including all measures necessary to adequately decommission an Asset prior to disposal) complies with this policy.

In the case of Land and Buildings, additional processes must be applied, which are set out in Appendix I.

1.2.2 In what situations does the policy apply?

The policy applies in all situations where there is a disposal of Assets, IP Assets or a Grant of Access to Assets of the University. Heads of Units are responsible for notifying the Finance Division of all Assets registered to or located in their departments, which they intend to dispose of, or to grant access.

1.2.3 Who is responsible for ensuring that the policy (and any associated procedure) is implemented and monitored?

The Governing Authority has overall responsibility for the custody, safekeeping, utilisation, access to and disposal of Assets and IP Assets. In general, these functions are delegated through a decentralised structure with responsibility for Assets being vested in relevant Officers (i.e. Heads of Units) who act as custodians, on behalf of the University.

Heads of Units are responsible for adherence to this policy in the disposal/granting access to, all Assets registered to or located in their Unit. They must also ensure compliance with any other related relevant Statutes and Government Regulations.

1.2.4 Where are details of Assets available

It is University policy to capitalise fixed assets, details of all fixed assets are recorded on the accounting system. In the case of equipment including audio visual, computer and research equipment all such items costing at or above €25,000 are capitalised and details can be accessed by Heads of Units from the Finance Systems reports section, including cost and

current carrying value. Items below this value and costing above €1,000 are not capitalised but are recorded on the finance system fixed assets module. All Assets carry an identifying tag to facilitate identification and can be traced from the tag number.

1.3 Definitions

In this policy

'Asset(s)' means tangible fixed assets and investment properties included in the consolidated balance sheet of the University. In accounting standards, tangible fixed assets are defined as "Assets that have physical substance and are held for use in the production or supply of goods or services, for rental to others, or for administrative purposes on a continuing basis in the reporting entity's activities". Tangible fixed assets include land and buildings and assets in the course of construction, laboratory equipment, audio-visual equipment, research equipment, computer equipment, motor and other vehicles and heritage assets. Investment property is real estate held to earn rentals or for capital appreciation or both.

'Cost(s)' mean all costs associated with the disposal of assets or granting access to Assets such as dismantling and removal costs, transportation costs, valuation fees, auction fees, recycling fee etc.

'Depreciation' is an accounting method of allocating the cost of a tangible or physical asset over its useful economic life. The University accounting policy for depreciation is set out in its financial statements; it operates on a straight-line basis over the useful economic life of each category of asset.

Disposal(s) ordinary meaning is a transfer of ownership in an assets whether by means of sale, retirement, gift or otherwise. Disposals include outright sale, sale by auction, scrap, recycle, trade in and donation to registered charities or communities. For this policy, Granting of Access is also a disposal.

'FSP Committee' Governing Authority Finance, Strategy and Performance Committee

'Grant of Access' includes the granting and surrender of a lease, a rental agreement, licence agreements excluding IP agreements falling within the scope of the University Intellectual Property Policy, concession agreements and option agreements.

'Head of Unit' is the employee responsible for the management of the assets and budgets of an organisational division within the University (Faculty Office, Department, Division, School, Institute, Centre and cost centre).

'IP Assets' means shares in the capital of a company received by the University as recognition of the supports and ecosystems, provided by the University and the State, that have underpinned the development of the University spinout company. It also includes the sale by assignment of University of Limerick Intellectual Property (IP) or UL IP as defined in the University of Limerick Intellectual Property Policy.

'Residual value' is the estimated value of a fixed asset at the end of its useful life.

'Student(s)' are students who have use of Assets such as laptops or other equipment and devices.

'Valuation' is the process of determining the current value of an asset. There are many techniques used for undertaking a valuation.

2 Context

2.1 Legal and Regulatory Context

2.1.1 Universities Act 1997 and Code of Governance for Universities 2019

The disposal of, and granting access to, Assets, is governed by the Universities Act 1997 and in particular by Sections 13 and 42 of that Act.

Compliance with the requirements of the Code of Governance for Irish Universities 2019 for the disposal of assets and the use of auction or tendering requirements.

2.2 Other Context

2.2.1 Maximising Value

In addition to the relevant statutory provisions of the 1997 Act and regulations in the Code of Governance for Universities, the University is committed to ensuring that all University's Assets are used in a most effective and efficient manner. When such resources become surplus to requirements, the University will endeavour to dispose of them in a method that is fair and transparent, complaint with environmental laws and regulations and which maximises any possible residual value of the asset.

3 Policy Statements

3.1 Principles for Disposal Assets Policy

3.1.1 Transparency

To provide a systematic, transparent and accountable method of monitoring and controlling the disposal of, and granting access to Assets and IP Assets, and to protect the University and its staff from any conflict of interest, either potential or real, which may arise in relation thereto.

3.1.2 Value for Money

To ensure value for money in the disposal of, or granting access to, Assets and IP Assets and to maximise the residual value from such disposals, where applicable.

4 Related Procedures for Disposal / Transfer / Sale of Fixed Assets

4.1 Methods of Disposal of Assets

The principal methods of disposal are follows:

a) Outright sale
b) Auction by a contracted auctioneer
c) Scrap - to a licensed dealer
d) Recycle - to an authorised agency
e) Trade in - to supplier against replacement items
f) Donation to registered charities or community organisations

4.2 Methods of Granting Access to Assets

The principal methods of granting access are follows:

a) Lease agreement
b) Rent agreement
c) License agreement
d) Concession agreement
e) Option agreement

4.3 Sale of Asset Approval Request Form

For each proposed Sale of Asset transaction, it will be necessary to complete a Sale of Asset Approval Request Form **in advance of any agreement to sell**. A copy of this completed form will be forwarded to the Finance Division with the original being retained by the relevant Head of Unit.

4.4 Disposal / Sale of Asset Form

For each proposed Disposal/Sale of Asset transaction, it will be necessary to complete a Disposal / Sale of Assets Form). A copy of this completed form will be forwarded to the Finance Division with the original being retained by the relevant Head of Unit.

4.5 Sale/Transfer of Asset Disclaimer

For each approved Sale/Transfer of Asset transaction, it will be necessary for the purchaser to sign a completed Sale/Transfer of Asset Disclaimer. A copy of this completed form will be forwarded to the Finance Division with the original being retained by the relevant Head of Unit.

Where there is a contract between the University and the purchaser the disclaimer should be incorporated into the contract.

4.6 Professional Valuation Advice

In all cases where the anticipated disposal value, or where the anticipated value of granting access to an Asset is at or above €150,000, the relevant Head of Unit should obtain a written professional Valuation for the asset in question. In selecting a suitably qualified professional/firm to advice on valuations, public procurement regulations and national guidance must be followed.

Where the disposal relates to Land or Buildings (regardless of value) at least two independent valuations should be obtained from procured valuers under the University Procedure for the Engagement of Professional Services.

4.7 Relocation or Reallocation of an Asset

Where an asset is relocated within the University or the rights and obligations of ownership are reallocated from one department to another within the University it will be necessary for the relevant Head of Unit to inform the Fixed Asset section in the Finance department in writing (or by email) of this change of location and/or ownership.

Assets, excluding small items of equipment used during periods of approved remote working (e.g. laptop or monitor), should not be moved or taken from within the University. In exceptional circumstances and where a valid reason requires an asset to be temporarily moved from the University to another location e.g. collaborative research or during a period of restricted access to the University, advance approval must be sought in writing from the relevant member of Executive Committee. Once approved this must also be notified to B&E for insurance purposes and the Fixed Assets section in the Finance department.

4.8 Valuation Thresholds

(a) Less than €1,000

Whilst having due regard for the principles of openness and transparency, the University recognises that in the case of low value items, where the Costs of disposals e.g. (advertising/ administration etc.) are likely to exceed the proceeds from sale, public tender may not be justified.

Occasionally, individual offers may be received for obsolete equipment, including offers from staff members and connected persons. In the case of low value items, valued at less than €1,000, the relevant Head of Unit responsible for those Assets may agree to dispose of the item(s) at their own discretion. This is subject to notifying the Finance Division in writing (see Sale of Asset Approval Request Form) of their estimated value, in advance of any agreement to dispose.

(b) At or above €1,000 and less than €150,000

Where the anticipated value of the disposal/granting access transaction is at or above €1,000 and less than €150,000, it may proceed upon obtaining the relevant Head of Unit's agreement to the transaction in writing (or by email). This is, subject to notifying the Finance Division in writing (see Sale of Asset Approval Request Form) of their estimated value, in advance of any agreement to dispose, and by then advertising the sale/access in the public domain, e.g. local press and internet.

The transaction should be open and transparent and at least three offers in writing to acquire the asset/access rights should be procured.

(c) At or greater than €150,000

Where the anticipated value of the asset, IP Asset disposal or granting access transaction is at or greater than €150,000, the Head of Unit shall notify the Finance Division (see Sale of Asset Approval Request Form) of their estimated value, in advance of any agreement to dispose. The Finance Division will then table the proposal at the next meeting of the Governing Authority FSPC Committee. Upon obtaining Governing Authority FSPC Committee approval, the Head of Unit shall organise the disposal/granting access by way of auction or competitive tendering process, other than in exceptional circumstances (see next paragraph). The anticipated value may be determined either by a reserve price recorded in advance or by a formal sign-off in accordance with University policy, as agreed by the Governing Authority FSPC Committee.

Exceptional circumstances could include a sale to a charitable body or where the University believes that competitive tendering is not appropriate due to the sensitive nature of particular arrangements in respect of joint ventures with industry or other external parties. Where in such circumstances a decision is that competitive, tendering is not appropriate the approval of the Governing Authority FSPC Committee must still be sought. In all cases, the method used should be both transparent and likely to achieve a fair market-related price.

Disposal of IP Assets where the University is not in a position to exercise control, e.g. minority shareholding, Governing Authority FSPC Committee advance approval is not required. In such circumstances the Governing Authority FSPC Committee should, at the earliest opportunity, be notified of the full details of the disposal.

4.9 Where highest auction/tender bid not accepted

In all cases where auction/public tender takes place and it is proposed not to accept the highest bid, specific Governing Authority FSPC Committee approval will be required before the disposal of the asset or granting of access to land, buildings or infrastructure for commercial arrangements with third parties, can be completed. For reasons of transparency, such approval together with the reason why a lower bid was permitted to be accepted should be noted in the minutes of the Governing Authority or Governing Authority FSPC Committee. Heads of Units planning to dispose of, or grant access to, Assets by auction, must use a University appointed Auctioneer.

4.10 Where an auction or tender process does not take place

In all cases where an auction or competitive tendering process does not take place, and the anticipated value, informed by an independent valuation for Land or Buildings, of the Assets/Grant of Access is at or greater than €150,000, Governing Authority FSPC Committee approval must be obtained before negotiations start. This approval is also required before the disposal of the asset or granting of access to land, buildings or infrastructure for commercial joint venture arrangements with third parties can be completed.

4.11 Governing Authority Finance, HR and Asset Management Committee Approval

No disposal of an Asset, IP Asset or Grant of Access to land, buildings or infrastructure for commercial arrangements with third parties should be completed until the officer authorising the disposal or Grant of Access has certified formally that Governing Authority FSPC Committee approval is not necessary, with the reasons therefor.

4.12 Reporting outside Auction or Tendering Process at €1,000 and below €150,000

Details of and explanations for all disposals of Assets or grants of access to land, buildings or infrastructure for commercial arrangements with third parties with an individual or combined material value (i.e. at or in excess of €1,000) below the threshold value of €150,000, without auction or competitive tendering process, should be formally reported, with the price paid and the name of the buyer, to the Governing Authority FSPC Committee, on an annual basis.

4.13 Reporting outside Auction or Tendering Process (at or greater than €150k)

Details of and the disposals of Assets, IP Assets or grants of access to land, buildings or infrastructure for commercial arrangements with third parties at or above the threshold of €150,000 which have not been the subject of auction or competitive tendering process should be included in the Annual Governance Statement.

4.14 Disclaimer

The University of Limerick makes no warranties or representations of any kind, express or implied, in relation to the condition, fitness for purpose or merchantability of any Assets disposed of transferred or access granted under this policy (the "Asset") by the University. Any such warranty, representation or condition (express or implied) is expressly excluded. It is the purchaser's/acquirer's responsibility to satisfy [himself/herself/itself] as to the actual state and condition of the Asset and the purchaser/acquirer of any Asset purchases or acquires the Asset with full knowledge of the actual state and condition of the Asset. The University of Limerick accepts no responsibility for any losses, liabilities, claims, expenses, costs (including legal and other professional fees), damage or injury arising from or in any manner connected with the receipt and use of the Asset.

It is the responsibility of the Head of Unit to ensure that the purchaser is made aware of this disclaimer and ensure that this is acknowledged by the purchaser through the signing of the completed Sale/Transfer of Asset Disclaimer.

4.15 Safety and Waste Issues

Assets disposed of, are classified as such in the University's finance system fixed asset module. Dangerous parts will be removed from machines deemed to be unsafe. Costs of disposal and/or recycling will be borne by the disposing department/unit. Where possible the University will cover the cost by using the scheme (WEEE/PRF Waste Electrical and Electronic Equipment Directive/Producer Recycling Fund) to minimise or eliminate this cost.

4.16 Decommissioning of Assets Prior to Disposal

All Assets must be adequately decommissioned prior to sale or other disposal. Such decommissioning may involve deleting files and programs from computer hard drives with particular attention to potentially sensitive files and other information or programs licensed to the University. Decommission should also ensure that Assets are completely safe and uncontaminated, with all potentially hazardous materials or substances removed or made safe in accordance with current Health and Safety guidelines before exposure to the public.

4.17 Conflict of Interest & Connected Parties

Heads of Units must ensure that no conflict of interest occurs in, or as a result of, Asset Disposals, or Grant of Access to Assets.

Disposals of Assets to members of governing authority, employees or their families or connected persons, should, as with all disposals, be by a transparent method and at a fair market-related price. A register of all such disposals to such persons (to include details of the asset disposed of, price paid and name of the buyer) should be forwarded to the Governing Authority FSPC Committee (minor disposals below a value of €5,000 may be omitted from the register). The register should be available for inspection, if requested, by the Governing Authority or by any member of the Governing Authority.

In the circumstance of such disposals the Governing Authority retain a requirement that any disposal above €10,000 may not be made without having been formally endorsed by the Governing Authority, which may impose specific restrictions with regard to any such disposal.

4.18 Audit of Asset Disposal/Granting Access Process

All disposals/granting access will be subject to random and annual audit checks. All relevant documentation including the original of the Disposal/Transfer of Asset Form must be retained by the Head of Unit and made readily available for scrutiny by the Office of the Comptroller and Auditor General, Internal Audit and other University auditors.

4.19 Income from Disposal of, and/or granting access to Assets

Income derived from the disposal of and/or granting access to Assets must be receipted immediately, with the income being accounted for as central funds of the University, unless otherwise agreed by prior written arrangement with the Finance Division. The Disposal/Transfer of Asset Form must include the receipt number when monies are received from the Disposal of the Assets.

5 Related Documents

Code of conduct for Employees
Code of conduct for Members of Governing Authority
Policy for Conflicts of Interest
Intellectual Property Policy
Procurement EU regulations and national guidelines
Procedure for the engagement and provision of instruction of professional services advisors and advisor firms
Asset Disposal-Scrap Form
Asset Reallocation/Relocation Form
Asset Sale/Transfer Approval Request Form
Asset Sale/Transfer Disclaimer Form
Asset Information Update Request Form
Policy for the Appraisal and Approval of Capital and Investment Projects

6 Document Control

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Appendix 1 Disposal of Land and Buildings

University of Limerick's Land and Buildings are mainly located on the Plassey Campus, with non-contiguous property in the Castletroy/Rhebogue area - consisting of student accommodation and the ParkPoint development - and a Limerick City centre building at Honan's Quay.

It is not anticipated that the University would ever wish to dispose of Land or Buildings on the main Plassey campus, however it could possibly enter a long-term lease or license arrangement for a part of the campus as part of a public private partnership.

The University might wish to dispose of non-contiguous property holdings that is surplus to requirements, or for commercial or strategic reasons.

Approval Authority

Land or building disposal transactions will be considered a Capital Asset decision and as such require approval in accordance with delegated powers of both the University Executive Committee and the Governing Authority.

As per section 2.2 (Finance, Property and Reporting) of the Matters Reserved for the Governing Authority, the University's Finance, Strategy and Performance Committee (FSPC) is the designated group to oversee proposed disposals, and, if in agreement, to recommend disposals to Governing Authority.

The following table sets out the threshold for approval between FSPC and Governing Authority.

Disposal value €	Executive approval	University approval
<= €1m	University Executive Committee	GA Finance, Strategy and Performance Committee
>€1m	University Executive Committee	Governing Authority based on recommendation from GA Finance Strategy and Performance Committee

Table 1 Delegated Approval Authority

Leasing of Land or Buildings

Where the University decides to lease a land or building, rather than dispose of it outright, this appendix also applies. The term of the lease should have regard to the future requirements of the University and care should be taken to avoid any restrictive covenants to protect the University's interests.

The Business Case

Where the University is considering the disposal of land and/or building a Business Case should be developed which sets out:

- the rationale for the disposal
- the impact of the disposal on current and future space requirements of the University
- the likely financial impact of the disposal on operating and capital costs
- the impact on borrowings if applicable
- the proposed usage of sales proceeds

- the proposed method of disposal
- consideration should be given to selling to another public body, where the land or building by its nature, or location, may possibly be of interest (e.g. a disused educational facility). Where relevant, this should be reflected in the proposed method of disposal.

A disposal of Land or Buildings will typically be approved twice.

- The initial approval should be of the business case proposal to dispose of an asset and the proposed disposal methodology.
- The second approval should be to approve the final sales amount and the legal authorisation to proceed with the sale.

There may be instances where the disposal requires a single approval, specifically where the sales proceeds are expected to be less than €150,000, or when a reserve price is approved as part of the business case (this should be accompanied with at least two written professional valuations). The business case should not indicate a preferred purchaser.

Where a disposal forms part of a wider business case under the Policy for the Assessment and Approval of Capital and Investment Projects, then the disposal approval may be integrated into the overall project approval process, however the disposal process as set out in this document must be adhered to in relation to independent valuations.

The business case should be approved prior to any sales negotiations taking place (formally or informally). The business case should not indicate a preferred purchaser or sales amount, however if a business case has been prompted by an unsolicited approach from an entity wishing to acquire University land or building, this must be clearly documented in the business case.

Proposed Method of Disposal

The disposal method used should be both transparent and likely to achieve a fair market-related price.

In order to maximise the financial return, the University should dispose of Land and Buildings on the open market. Open Market means of disposal include public auction, private treaty, informal tender, formal tender, sale of long leasehold interest properties, surrender, assignment of leasehold interest, disposal and leaseback, break clauses, and subletting to a third party. There may be circumstances, such as a public private partnership or wider business case, where disposal on the open market may not be regarded as the most beneficial option for the University.

Implementing the decision to dispose and early engagement of professional advice.

After the decision in principle to pursue a disposal, a process of implementing that decision begins.

Should the preferred method of disposal require an auctioneer then, depending on the scale of the disposal, it may be necessary to run a procurement competition, prior to appointment.

Ensure compliance with the University Policy for Conflict of Interest.

It is necessary to consider the range of legal, valuation, planning, structural, taxation (Capital Gains, VAT & Stamp duty) or other advice that is needed in implementing the decision taken, much of this will have been obtained in preparing the Business Case. It is important to engage professional advice in good time to ensure that the decision taken is implemented as intended.

Negotiation

Care has to be taken before entering into negotiations with potential purchasers to ensure, among other things, that unintended commitments are not entered into. Before entering any negotiation, legal advice should be secured to guide through the disposal process.

During the course of negotiations, exchanges whether oral or written should be minuted, must clearly state that any agreement reached is without prejudice and is conditional on the exchange of formal written contracts and the payment of a deposit.

Post Sale

When land or building is sold the University Asset Register should be updated and all codes relating to the land or building closed on the Finance system to prevent further payments relating to the land or building. All maintenance contracts, utility contracts, insurance, etc. should be terminated.