

Important notes on the Guidelines for the sale of Vacant Land and Buildings vested in the Crown as Bona Vacantia.

1. The attached Guidelines give you information about the sale by the Treasury Solicitor of vacant land and buildings ("property"). Please read the Guidelines carefully.
2. These guidelines only apply if the property is vacant. Separate guidelines (Forms BVC 6F and BVC 6L) apply to property with tenants.
3. Please complete and return the attached questionnaire with **FULL REPLIES**.
4. If you are instructing solicitors to act for you, please supply their name, address, and reference as soon as possible, and let them see a copy of these Guidelines. As the Treasury Solicitor cannot give you legal advice, you should consider instructing your own solicitor if you have not already done so.
5. Depending upon when the company was dissolved, it is possible that it can be restored to the Companies Register, and then the ownership of the property would automatically return to the company. If restoration is possible, the Treasury Solicitor may ask the former members or liquidators of the company if they intend to restore it, before dealing with the property.
6. Where the property forms part of a residential estate, it may have been designated as "*public open space*" or "*amenity land*" by the local planning authority, and could not be used for any other purpose without further planning permission to change the use. It would be sensible for you to consult with the local planning authority regarding your plans for the future use of the property before you buy it. If the property forms part of the public open space or amenity land of the estate, a sale to the local residents association (if this is possible) or to the local authority may be a more appropriate means of safeguarding and providing for the future maintenance and protection of the common parts of the estate.
7. If the property forms part of a highway or path, or is next to a highway or path (whether the highway is a public or private one), usually the land under the highway up to the centre line is automatically presumed to be owned by the person who owns the adjoining property. Even if the description of the property in the Deeds or at the Land Registry does not include the half width of the road, the land under the highway up to the centre line will still be automatically included in the title, unless it has been expressly excluded. In order to find out if the usual presumption has been expressly excluded, you would have to consult your title deeds or the Land Registry's records. This presumption of ownership usually precludes the title to a roadway, or the land underneath it, passing to the Crown as bona vacantia. If for any reason this usual presumption does not apply, you would need to speak to the local highway authority to see if the roadway has been formally adopted. If the ownership of the road has passed to the Crown, and the road has **not** been adopted, we may consider disposing of it, either by way of sale or disclaimer (see paragraph 3 below).
8. As well as the purchase price, the purchasers will also have to pay a minimum contribution of £400, plus VAT and disbursements, towards the Treasury Solicitor's legal costs. For a very complicated sale, the costs may be higher. If we offer to sell to you we

would require an undertaking from your solicitors to pay the Treasury Solicitor's legal costs, plus VAT and disbursements, whether or not the matter proceeded to a completion. **However, at this stage there is no certainty that any offer will be made to you or anyone else to purchase the property.**

9. As explained in the attached Guidelines, the Treasury Solicitor has a statutory power to disclaim the Crown's title to property (i.e., to give up the Crown's right to deal with the property). We will give you 4 weeks to complete and return to us the attached questionnaire, before making any decision as to how to deal with the property.
10. **These Guidelines contain general advice and cannot cover every circumstance that may arise. It is not intended to be a complete guide. Each case will be dealt with on its own merits, and the right to vary or depart from these Guidelines at any time without notice is expressly reserved.**

THE TREASURY SOLICITOR

BONA VACANTIA DIVISION

Guidance about the Sale of Vacant Land and Buildings that have passed to the Crown as Bona Vacantia

Background

1. When a company that was registered under the Companies Acts is dissolved, all its property in England and Wales (but not its liabilities) passes to the Crown as **bona vacantia** (meaning “ownerless property”) because of Section 654 of the Companies Act 1985.
2. If the company's last registered office was in England or Wales (other than in the Duchies of Cornwall or Lancaster) we are nominated by the Crown to deal with its property.

What we can do for you

3. Bona vacantia property belongs to the Crown, and the Crown is not obliged to deal with it in any particular way. Normally it will be disclaimed (i.e. the Crown gives up its right to the property) or sold, and the proceeds of sale transferred to the Exchequer to deal with in the same way as money raised by general taxation.
4. It is only the assets of a company that pass to the Crown when it is dissolved. Its liabilities are extinguished, and the Crown accepts no liability for the property under the company's title or otherwise.
5. When selling property that has passed to the Crown as bona vacantia, we are required to obtain the best price. We will seek independent advice from the District Valuer on both the price, and the most appropriate method of sale. If the property has tenants, the usual practice of the Treasury Solicitor is to offer the freehold (or headlease) to the tenants. Separate guidelines for the sale of property with tenants (Forms BVC 6F and 6L) are available on our website.
6. The District Valuer may advise that in order to achieve the best price the property should be sold by auction or tender, or offered on the open market. The District Valuer may recommend that all the adjoining owners, or the local authority, should be approached to find out whether they have any interest in acquiring the land. There is, therefore, at this stage no certainty that we will offer to sell the property to you, or to you alone. However, to speed matters, you may wish to ask the (other) adjoining owners if they are interested in the property. If the property adjoins or forms part of a road or footpath you could also ask the highway authority if it has been adopted as a public highway, and whether they would object to the sale.

What we cannot do for you

7. The Treasury Solicitor does not manage or insure property that is owned by the Crown as Bona Vacantia. If you occupy all or any part of the property in question you should accordingly seek your own immediate independent advice regarding the insurance and management of the property.

8. We will not usually take possession of bona vacantia property.
9. We cannot transfer property with either full or limited title guarantee. This means that when we sell property we do not give any guarantee or assurance that we have the legal right to sell it.

How it works

10. Before we will deal with the property, we must be sure that the company was the owner at the time that it was dissolved, and that the property was not held upon trust by the company for the benefit of any other person.
11. If the title to the property is registered at the Land Registry, this can be proved by producing an official copy of the entries on the register and coloured copy of the title plan showing the company as the registered proprietor – you can get this from your District Land Registry.
12. If the property is not registered at the Land Registry, you will have to give us other evidence that the company owned it. This usually means tracing the original title deeds and forwarding them to us. We cannot deal with property until we have satisfactory evidence of ownership.
13. If there is a mortgage or other debt secured on the property, any sale would be subject to the mortgage or security. It will be up to the purchaser to get details about this from the person or organisation holding the mortgage or security, and to get the appropriate release.
14. The person or organisation holding the mortgage or security usually has a statutory right to sell the property to pay off the debt owing to them. We will usually agree to them selling the property, and paying us any surplus after paying off the debt. Separate guidelines (BVC 10) on a sale by a mortgagee or creditors are available on our website.
15. Any sale would also be subject to the rights that any other person has over the property, such as a right of way, rights of parking, and rights of occupation. If anyone occupies the property it is possible that they may have acquired ownership by adverse possession. Separate guidelines relating to ownership by adverse possession are available on our website.
16. We will usually follow the District Valuer's advice as to the most appropriate method of sale. If the District Valuer advises us that the property has no development value, and recommends a price based on its current use value, the offer may then include a covenant to restrict the future use of the property, and to prohibit any future development on the property.
17. You will have to pay a minimum price of £500, and also the Treasury Solicitor's proper legal costs, plus VAT and disbursements. The sale will be on such terms and conditions that we prescribe, and upon the basis that the matter shall remain strictly subject to contract until completion.

Money Laundering

18. In accordance with good practice, and with the aim of preventing money laundering, the Treasury Solicitor operates in accordance with the principles laid down in Part VII of the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003.

19. For that reason, the Treasury Solicitor makes such enquiries as are deemed necessary to comply with the Act and the Regulations, including obtaining evidence of identity from those with whom we do business and retaining such evidence in accordance with our record-keeping procedure.

What to do next

20. This guidance does not represent a binding offer or any professional undertaking to sell the property. We reserve the right to disclaim the Crown's claim to the property without notice at any time under Section 656 of the Companies Act 1985. If we disclaim the title to freehold property, the Crown Estate will subsequently deal with the matter. Following disclaimer, any enquiries should be addressed to their Solicitors, who are Messrs Burges Salmon, Narrow Quay House, Narrow Quay, Bristol BS1 4AH. If the title is disclaimed, we will send a copy of the formal notice of disclaimer to all interested parties of whom we are aware.
21. If we do offer to sell the property to you the sale must be completed within the time period we prescribe. The power to disclaim property only applies for a period of 12 months from the date when it came to our notice that the property was bona vacantia. In certain circumstances this period may be reduced to 3 months. It is our practice to require sales to be completed well before the disclaimer period expires, and to disclaim property if completion will not be possible before the end of the disclaimer period.
22. We will usually disclaim onerous property, such as;
- commercial leases at a market rent
 - land used in common, such as private roads, service yards, amenity land, or the common parts of an estate or a block of flats
 - property subject to onerous covenants or other potential liabilities
 - property which is contaminated or has buildings, trees, or other items which are in a dangerous state and condition
 - property subject to negative equity
 - property where there are a number of competing claims, and
 - property which is of limited value (under £500), or unmarketable, or where it would not be cost effective to attempt a sale.

This is not an exhaustive list, but represents the most common situations where disclaimer is appropriate. Separate guidelines relating to disclaiming property (Form BVC 7) are available on the bona vacantia division website.

23. As you will appreciate from the above, there are a number of steps which will have to be taken before consideration can be given to the possibility of selling the property in question, **and at this time there is no certainty that any offer to sell the property will be made to you.**
24. In the meanwhile please complete and return the attached questionnaire with full replies.

Please note

25. You may want to take professional advice on the important information in this document. It is not our role to give you legal advice – we provide the information as guidance only. We accept no liability for its accuracy and we reserve the right to change or depart from the guidance at any stage. If you wish to pursue the matter you may wish to refer it to

your own solicitors, and show them a copy of these guidelines. They will then be able to give you further assistance.

Further information

You can find copies of all the documents referred to in these guidelines, and more information about bona vacantia from our website at www.bonavacantia.gov.uk . Information is also available in large print, audio tape and Braille formats.

Please Note

The purpose of these guidelines is to set out our approach to the property and rights that pass to the Crown as bona vacantia. This document is not an Act of Parliament and it should not be read or interpreted like one. It is intended to provide general guidance only, and it is not a statement of policy.

We will consider each matter on its facts and decide each case on its merits. Our decisions will be based on all the information available to us and we will tell applicants about our decisions as soon as possible. When dealing with any property and rights that pass to the Crown, we act fairly and impartially but in such a way as to not prejudice the interests of the Crown. We aim to be fair in all our dealings and not to take an unfair advantage or to favour one party over another.

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QUESTIONNAIRE

<u>Questions</u>	<u>Answers</u>
1. Please provide a plan on A4 size identifying by red edging the extent of the property that you are interested in, and by blue edging any neighbouring property that you own.	
2. Are there any buildings on the land? If so, are they commercial, residential, or industrial?	
3. If it is only vacant land, has it been incorporated into any adjoining property that you (or any one else) own?	
4. Please let me know why you are interested in acquiring this property from the Crown, and what are your future intentions regarding its use. If you are proposing to carry out any development on the land or any adjoining land that you own that would require planning permission I would firstly need to see a copy of the planning consent obtained from the local planning authority.	
5. Do you want to use the land to gain access to any other land that you own?	
6. Please supply details of any past or current disputes on other matters relating to the property or its use.	
7. Please provide official copy entries and a title plan from the Land Registry in respect of the property that you are interested in purchasing, and to any adjoining land or property that you own.	
8. Please state the full names and addresses of any persons now in occupation of the property, or who have assumed responsibility for its maintenance, and state when this occupation or maintenance commenced.	

<p>9. If the property is used in common, please provide the names and addresses of the persons who currently use the land.</p> <p>10. If the property is subject to a mortgage or charge, have you made any enquiries of the lender as to their intentions regarding the property?</p> <p>11. Please give the name, address and reference of the solicitors who will be dealing with the legal formalities on your behalf.</p>	
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The above answers are true to the best of our belief and knowledge.

Signature.....Date.....

Name [in BLOCK CAPITALS]

Address