



National Health Service in Scotland
Management Executive

St. Andrew's House
Edinburgh EH1 3DG

Dear Colleague

**HEALTH SERVICE ESTATES MANAGEMENT:
PROPERTY TRANSACTIONS PROCEDURES**

Summary

1. This letter introduces revised procedures for the handling of NHS property disposals. The key effect of the new procedures is the transfer of responsibility for the management of all property disposals to Health Boards and the Common Services Agency. In this letter the term "Health Board" or "Board" should be read as meaning also the Common Services Agency.

2. The new responsibilities include the completion of certification by Boards and CSA for all disposals, and grants of lease, other than for sales of staff houses valued at under £30,000.

3. An interim guidance note on the new procedures is attached. This should be read with a separate MEL introducing new delegated limits for certain Boards which is also being issued today.

Scope of New Procedures

4. The existing land transactions procedures embodied in Circular SHHD/DGM(1989)43 remain in force for the time being except insofar as amended by the interim guidance note attached. Both sets of guidance will be drawn together in a revised guidance manual to be issued by 1 July 1992.

5. Under the purchaser/provider arrangements, Boards retain ultimate responsibility for the disposal of NHS property relating to Headquarters or directly managed units. Under the new procedures, therefore, General Managers of Boards have responsibility for the proper handling of property transactions whether or not day to day tasks are devolved to units.

6. Responsibility for the acquisition, disposal and general management of NHS Trust assets rests with the Trusts themselves subject to any limitation imposed as part of the Establishment Orders. As part of the Health Service, Trusts must follow Government procedures for the disposal of surplus public land and separate guidance on this will be issued to Trusts as soon as possible. In the meantime, Trusts are expected to have regard to

1 May 1992

Addressees

For Action

General Managers,
Health Boards

General Manager,
Common Services Agency

Chief Executives and
Chief Executive
Designate, NHS Trusts

To be copied to Unit
General Managers for
action as appropriate

For Information

General Manager, State
Hospital

General Manager,
Health Education Board
for Scotland

Enquiries to:

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the general terms of this MEL and to comply with the requirements of paragraph 5 of the Interim Guidance Note.

7. The revised procedures do not apply to the State Hospital or the Health Education Board for Scotland who do not enjoy delegated authority, but this MEL is being sent to both bodies for information. The position of the State Hospital and HEBS in the longer term is being considered separately.

Action

8. Boards and CSA are asked to introduce the new procedures with immediate effect.

9. General Managers of Boards and CSA should:

9.1 bring this letter to the notice of all staff responsible for property transactions;

9.2 ensure that staffing and working arrangements allow the new procedures to work effectively;

9.3 ensure that all staff responsible for property transactions are fully aware of the new and significant responsibilities being placed on Boards and CSA; in particular in relation to

- key mandatory requirements (Annex B of Interim Guidance Note)
- issues requiring the Chief Executive's prior authorisation (Annex D of Interim Guidance Note)
- procedures for seeking the Chief Executive's approval (Annex E of Interim Guidance Note)
- certification arrangements (Annex F of Interim Guidance Note).

10. Chief Executives of NHS Trusts should ensure compliance with the requirements of paragraph 5 of the Interim Guidance Note.

11. This letter should be copied to Unit General Managers for action as required.

Yours sincerely



H R McCALLUM
Director of Estates

HEALTH SERVICE ESTATE MANAGEMENT: PROPERTY TRANSACTIONS PROCEDURES

INTERIM GUIDANCE NOTE

Introduction

1. This Guidance Note deals with the introduction of revised procedures for the handling of NHS property transactions. These arrangements operate with immediate effect. The key effect of the new procedures is the transfer of responsibility for the management of all property disposals to Health Boards and the Common Services Agency.

2. In this Guidance Note and annexes

2.1 the term "property" is intended to cover both land and/or buildings on it - and includes temporary buildings which have service connections with the permanent building;

2.2 the term "Health Board" or "Board" should be read as meaning also the Common Services Agency.

Scope of New Procedures

3. The revised procedures do not apply to the State Hospital or the Health Education Board for Scotland, who do not enjoy delegated authority, but this guidance is being sent to both bodies for information. The position of the State Hospital and HEBS in the longer term is being considered separately.

4. Under the purchaser/provider arrangements, Boards retain ultimate responsibility for the disposal of NHS property relating to headquarters or directly managed units. Under the new procedures, therefore, General Managers for Boards have responsibility for the proper handling of property transactions whether or not day-to-day tasks are devolved to units.

5. Responsibility for the acquisition, disposal and general management of Trust assets rests with the Trusts' themselves, subject to any limitation imposed as part of the Establishment Orders (eg approval of the Secretary of State for disposals in excess of £0.5m) and to the overriding accountability of Trusts to the Secretary of State. As part of the National Health Service, Trusts must follow agreed Government procedures for the disposal of surplus public land. Specific advice on these requirements and guidance related thereto will be provided as soon as possible. In the meantime, Trusts are expected to have regard for the general terms of this Guidance Note, including the certification requirements, and in particular to inform the Management Executive (Estates Division) of any action that they propose to take which would otherwise require the prior approval of the Accounting Officer, ie those matters identified in Annex D.

New Arrangements

6. The revised procedures transfer responsibility for the management of all property disposals to Boards. This Guidance Note together with the annexes deals with the respective roles of the Management Executive,

Boards, Central Legal Office and others involved in transactions; identifies the issues that must be referred to the Management Executive by Boards for prior authorisation; sets out the key mandatory requirements that must be adhered to by Boards in carrying out these responsibilities; and introduces a system of certification that such mandatory requirements have been met.

7. The intention is that revised property transactions guidance incorporating the new procedures will be issued by 1 July. In the revised guidance some emphasis will be placed on distinguishing between key mandatory requirements and guidance on good practice. The revised guidance will also contain some detailed changes to procedures to reflect experience of the existing guidance.

8. Implementation of these procedural changes would generally limit the Management Executive's (Estate Division's) direct responsibilities on property transactions to oversight of policy and monitoring, target setting, and consideration of cases referred to the Chief Executive for approval. Detailed responsibilities are listed at paragraph 3 of Annex A.

9. The new procedures do not in any way introduce reduced standards of management of transactions. Their effect is to transfer responsibility for the maintenance of existing management standards to Boards. As with previous guidance, the new procedures intend to ensure that property is sold and leased at a price and on other conditions which are the best obtainable for the public interest. The procedures are based on the general principle that Government should not own land for its own sake, and that land is disposed of as soon as possible consistent with obtaining the best return to the Government from the disposals. These new procedures place new and important responsibilities on General Managers as Sub-Accounting Officers, for which they will be answerable to the Chief Executive as Accounting Officer and the Public Accounts Committee of the House of Commons. General Managers are responsible for ensuring that procedures are followed - and that it can be demonstrated, publicly if necessary, that the best obtainable outcome for the public interest has been achieved in every case.

10. Together with the certification arrangements, the new procedures introduce a complementary system of post-disposal completion sample monitoring to validate the certification process. Withdrawal of responsibilities from Boards or other action will be considered if the new procedures are not strictly adhered to. Equally the Chief Executive will consider further transfer of responsibilities, including increased delegated authority, if the new procedures work well.

11. The new procedures only cover disposal of property at this stage, although the new monitoring arrangements also apply to acquisitions; the need for any change in acquisition procedures is being considered separately.

Management of Disposals

12. Broadly, with immediate effect, Boards are responsible for the management, conclusion and completion of certification in respect of all NHS property disposals and grants of lease subject to in the circumstances detailed at Annex D the Chief Executive's approval being

sought and obtained. Boards are responsible for consulting the Management Executive in any circumstances where they have reservations about completing certification in respect of a particular transaction. The Management Executive reserves the right to require a Board to seek their approval on matters relating to individual transactions.

13. To enable Boards to implement the new arrangements, the following supplementary notes are attached:-

Annex A

Respective responsibilities of the Management Executive, Boards/CSA, Central Legal Office, Central Services/Estates Services (Chief Estates Officer), the Valuation Office Agency (Scotland) and planning/marketing agents.

Annex B

Key mandatory requirements for Boards and CSA.

Annex C

Changes to existing land transactions procedures embodied in SHHD/DGM(1989)43 to operate with immediate effect.

Annex D

Issues requiring prior authorisation of Chief Executive.

Annex E

Procedures for seeking Chief Executive's approval.

Annex F

Certification procedures, including standard certificate for completion by Boards/CSA.

Annex G

Post-disposal monitoring procedures.

Annex H

Trawl procedures.

The existing land transactions procedures embodied in Circular SHHD/DGM(1989)43 remain in force for the time being except insofar as amended by the above notes. The guidance embodied in SHHD/DGM(1989)43 and the above notes will be drawn together in the revised guidance to be issued by 1 July 1992. Some changes, in addition to those indicated in the annexes, will be introduced following consultations with Finance Division and Treasury. It should be noted that the blanket references at paragraph 8 (first column) and paragraphs 5 and 9 (second column) of Annex D to Chief Executive approval being required, may be deleted or refined in the light of consideration of the revised property transactions guidance. But until

policy in this area has been reviewed, all cases within these categories should be submitted for the Chief Executive's approval of action.

14. Generally, the new procedures apply, with immediate effect, to all transactions. However, guidance on dealing with any certification difficulties during a transitional period until 22 May is contained at Annex F. Guidance on the handling of transactions which are currently with the Management Executive either for approval or advice will be given to Boards individually (in most cases over the next week or so). Generally, however, Boards assume immediate management responsibility for all disposals, even those outwith their delegated limit, unless the Management Executive indicates otherwise in writing.

Delegated Limits

15. In the light of current monitoring, the delegated limits for each Board are being reviewed and increased on an individual basis where this can be justified. Boards are being contacted individually about this.

Valuation Office Agency

16. Under the new procedures described, Boards are required to consult the Valuation Office Agency (Scotland) on specified matters, namely, the appointment of agents, valuation aspects and planning potential, and their formal views must be obtained before conclusion of every transaction, in particular at receipt of offers stage. However, under arrangements to be announced shortly, Boards will be able to dispense with the services of the Valuation Office Agency in certain circumstances. In order to dispense with these services, Boards will be obliged to meet certain requirements. These will include additional certification requirements on top of those set out at Annex F. A separate letter to General Managers will deal with these arrangements.

Central Services/Estates Services

17. SHHD/DGM(1990)94 reminded Boards of the valuable advice available from Central Services/Estates Services (CS/ES) of The Scottish Office, formerly Estate Services, Environment Department. The role of CS/ES as described in that letter remains unchanged. However, in view of the new responsibilities placed on Boards, it is more important than ever that they take advantage of this source of free advice. CS/ES can offer opinions and knowledge based on professional expertise and a wide-ranging experience of current market conditions, planning attitudes, etc arising from their range of contacts across the public and private sector. CS/ES are particularly well placed to advise upon the potential impact of disposals on other areas of the Secretary of State's responsibilities (eg, planning appeals, listed buildings consent) and precedents elsewhere in Scotland and the UK.

Way Forward

18. Together with an Action Plan for property disposal to be issued by the Chief Executive shortly, these new arrangements provide a framework for significant progress on property disposal over the next few years.

PROPERTY TRANSACTIONS PROCEDURES: RESPONSIBILITIES

Introduction

1. A key requirement for the efficient handling of property transactions is a clear understanding of who does what. Without that there is likely to be inefficient sharing of responsibility, duplication of effort, misunderstanding and insufficient accountability for decisions. It is necessary therefore to allocate respective responsibilities and ensure that all those involved in property transactions are aware of their particular role. These roles are as follows.

Management Executive

2. The Management Executive will have no day-to-day involvement in property transactions. In relation to individual transactions, the Executive's role will be to approve Boards' proposed action as required by the mandatory procedures, rather than initiate action. It is for Boards to provide the necessary supporting information to the Executive when approvals are required; if such supporting information is not provided, the papers received will be returned to the Board for completion of the necessary action. The Management Executive is not responsible for undertaking the preparation of supporting material, instructing Central Legal Office or commissioning the necessary advice from other advisers. This is the responsibility of Boards. In short, the Management Executive will have no operational role in the management of transactions.

3. The Executive's other responsibilities on property transactions reflect the Chief Executive's continuing overall responsibility for disposal of NHS property throughout Scotland. Key responsibilities here are financial accountability and maintaining the momentum on reduction of non-essential property holdings. Broadly the Executive's role in support of these responsibilities will be target setting and performance measurement, the maintenance and review of procedures and post-disposal monitoring. Detailed responsibilities are:-

3.1 the maintenance and review of land transactions procedures to ensure compliance with general Treasury and Scottish Office policy and to reflect experience;

3.2 the maintenance of mandatory requirements;

3.3 consideration of disposal cases referred for prior authorisation as required by the mandatory requirements;

3.4 sample monitoring;

3.5 action arising from unacceptable monitoring reports;

3.6 PES Narrative, estimates and related monitoring;

3.7 the setting of national targets for the disposal of surplus land through an increase in the proportion of the estate defined as essential for health care purposes;

3.8 monitoring of outcomes and action arising therefrom; and

3.9 integration of efforts to dispose of surplus land with general estate management action to improve estate utilisation and rationalisation.

4. The new allocation of responsibilities does not in any way introduce reduced standards of management of transactions. Their effect is to transfer responsibility for the maintenance of existing management standards to Boards.

Health Boards

5. Health Boards are responsible for the management of all disposal transactions, even those above their delegated limit. This includes identifying property for disposal, initiating the necessary preparatory investigations (including planning), arranging marketing, supervising progress, certification and overseeing completion of transactions. Where a transaction is outwith a Board's delegated limit, they are responsible for seeking the necessary approval from the Chief Executive in the required form (guidance on the procedure for seeking the Chief Executive's approval is at Annex E). In any circumstances where a Board has reservations about completing certification in respect of a particular transaction, they are responsible for consulting the Management Executive. In particular, Boards are responsible for:-

5.1 commissioning advice from the District Valuer and other advisers and appointing planning/marketing agents;

5.2 issuing the necessary instructions to Central Legal Office and other professional advisers;

5.3 in general ensuring that the mandatory requirements are followed;

5.4 resolving any differences with professional advisers or consulting the Management Executive if 'exceptionally' differences cannot be overcome;

5.5 ensuring that the planning potential of the property is completely clarified;

5.6 carrying out trawl procedures to establish any interest in property from Scottish Office Departments and negotiating direct with any prospective purchasers who express an interest;

5.7 decisions on health related sales and off market sales (unless a non-public body is involved) where the estimated proceeds are below the Board's delegated limits;

5.8 agreeing the marketing arrangements, arranging for offers to be opened, and taking account of professional advice on the acceptance of offers;

5.9 deciding when the Chief Executive's approval is required for a particular course of action;

5.10 acceptance of offers for all transactions except in certain stated circumstances;

5.11 supervising the completion of the transaction, and co-ordinating the necessary input from Central Legal Office and the Valuation Office if appropriate.

6. Boards will have a particular responsibility for co-ordinating receipt of advice from those involved in transactions, ensuring that the necessary action is taken and ultimately making the required decisions.

Valuation Office Agency

7. The Scottish Office of the Valuation Office Agency - consisting of the Chief Valuer's Office and 11 District Valuers' offices - is charged among other things with giving advice on the buying and selling of Crown land. Under arrangements to be announced shortly, Boards will be able to dispense with the services of the Valuation Office Agency if they can meet certain requirements. But all Boards are currently required to obtain the District Valuer's formal views before conclusion of every transaction; this includes advice on the appointment of marketing/specialist planning agents, valuation aspects, sale price and planning potential. The District Valuer offers a range of services including negotiation of the terms of purchases, sales or leases, considering planning and other specialist topics (for example, mineral rights) and providing information for option appraisals.

8. The District Valuer should normally be informed of proposed transactions from the outset; and he must advise on the acceptance of offers in all cases. The District Valuer's advice and recommendation must accompany every submission to the Chief Executive for a necessary approval. Where a Board propose to act contrary to the District Valuer's advice, this must be recorded in the certification and the Management Executive informed (for information in the case of disposals within a Board's delegated limit and for approval where disposals above a Board's delegated limit are involved).

Estates Services/Central Services

9. The chartered surveyors of Estates Services of Central Services, Scottish Office, can provide wide-ranging advice on all aspects of property disposal. They are the Management Executive's principal advisers on property transactions but Boards should feel free to contact them for advice without charge. Their services may be particularly helpful in assisting Boards to determine the extent of property which may be suitable for disposal or where complicated or unusual transactions are involved.

10. Because of their range of contacts across the public and private sectors, Estates Services are particularly well placed to advise on current market conditions, planning issues etc. They can also advise on whether specialist advice should be sought from external sources such as the Department of Health's Commercial Development Advisory Panel or private firms with particular expertise.

11. Consultations of this kind with Estates Services do not substitute for contact with the Management Executive and the Valuation Office Agency as required by the procedures. But they may assist Boards in preparing the necessary supporting information required for early approval of cases

referred to the Management Executive. The relevant contacts at Estates Services/Central Services, James Craig Walk, Edinburgh, (telephone, direct dialling 031-244 or switchboard 031-556 8400) are:

Mr R White	Chief Estates Officer	Ext 3629
Mr A Andrew	Principal Estates Officer	Ext 3633
Mr G Peace	Senior Estates Officer	Ext 3731

Property Planning/Marketing Agents

12. A wide range of specialist advice is available from property planning/marketing agents. They may have access to more specialist expertise than is available in-house or from the District Valuer; or they may be able to supply advice more quickly. It is important to choose the right agent (eg estate agent, surveyor, valuer or planning specialist) for each case. It may be sensible to appoint more than one agent: for instance, a planning consultant may give the best advice at the early stage of a complex sale (eg where a change in use of the property could greatly enhance its value) but the same firm might not give the best advice on marketing.

13. The advice of agents must be sought in every case, except where modest individual staff houses are involved. (If a Board has a number of small sales, it is open to them to negotiate a contract with an agent covering all these properties.) Agents should be appointed following competitive tender between 3 or 4 firms. Under current procedures (although different arrangements will be necessary in future where a Board has authority to dispense with the services of the Valuation Office Agency) the District Valuer must be given the chance to comment on the choice of agent before an appointment is made - and can suggest suitable agents for any particular case.

Central Legal Office

14. All legal aspects of NHS property transactions must be handled by Central Legal Office. Boards are responsible for issuing all the necessary instructions to CLO covering their requirements and it is for CLO to advise Boards on how these requirements can best be met in legal terms. The Management Executive will no longer act as principals in transactions for the purposes of issuing instructions to CLO.

15. Where required it will be for CLO to list the legal options open to Boards in managing transactions and to recommend the best course in legal terms, in the light of the Board's objectives and priorities (it will be for Boards themselves to take account of wider considerations). If the Management Executive is involved, it will be for CLO to advise Boards on how any requirements laid down by the Executive can be satisfied from the legal perspective. In advising Boards on all transactions CLO will have regard to guidance issued by the Management Executive.

16. Under the new arrangements, CLO will no longer seek instructions from the Management Executive on particular transactions. It will be for Boards to instruct CLO; if advice is required from the Management Executive it should be obtained by Boards themselves from the Management Executive after taking account of advice from CLO. CLO's advice and recommendation must accompany every submission to the Chief Executive for a necessary approval. In the case of disagreement between a Board and CLO, the Board is responsible for seeking resolution of such

differences. Where a Board propose to act contrary to CLO's advice, this must be recorded in the certification and the Management Executive informed (for information in the case of disposals within a Board's delegated limit and for approval where disposals above a Board's delegated limit are involved).

General

17. The achievement of a successfully concluded transaction depends critically on each party performing their respective roles effectively, and the outcome will be dependent on obtaining good professional advice. Because of the distinctive roles of each body involved in a transaction, critical requirements are advance planning, early consultation with professional advisers, and effective communication together with clarity in the allocation of action requirements and the recording of decisions reached. For the efficient management of transactions it is vital that professional advisers are aware of the Board's objectives and priorities (which should reflect the Management Executive's) and vice versa. Boards for their part should be conscious of the distinctive roles of particular advisers.

18. In the interests of speeding up property transactions, professional advice should be sought as early as possible in the process. The proper handling of a complex property transaction can take time and it is important to plan ahead.

19. Ultimately the Board is responsible for co-ordinating the necessary input and taking appropriate decisions (if necessary after consultation with the Management Executive). After obtaining the Management Executive's approval for any course of action, the responsibility for implementation of the necessary action rests with the Board concerned.

NHS Management Executive

PROPERTY TRANSACTIONS PROCEDURES:
KEY MANDATORY REQUIREMENTS FOR SALES AND GRANTS OF LEASE
FOR BOARDS/CSA

GENERAL

1. Ensure that the NHS in Scotland buys, sells and leases property at a price and on other conditions which are the best obtainable for the public interest at that time in terms of guidance issued by the Management Executive.
2. Health Boards must regularly review their estate in order to identify property which may be disposed of - either by outright sale or, in certain circumstances, lease. Where property is identified for sale, Boards must ensure that they themselves have no foreseeable use for it and consider the current and future use of all NHS property on the site, or in its vicinity, in order to maximise potential receipts without prejudicing future disposals.
3. All legal aspects of NHS property transactions must be handled by Central Legal Office. CLO's approval for the terms of a proposed lease must be obtained in every case.
4. The District Valuer's formal views must be obtained before conclusion of every transaction. This includes advice on the appointment of marketing/specialist planning agents as well as advice on the normal valuation aspects, sale fee and planning potential. The District Valuer's approval for the terms of a proposed lease must be obtained in every case.
5. The advice of commercial marketing agents must be obtained in every case except where modest individual staff houses are involved.
6. The Management Executive must be alerted to any matters concerning property transactions which are likely to inspire Ministerial interest, give rise to related judicial proceedings, or raise questions of a conflict with the Secretary of State's other responsibilities.

PRELIMINARIES TO SALE

7. The future planning potential of the property must be thoroughly investigated and completely clarified before a property is marketed. The Health Board with the benefit of professional advice, must ensure that it (and not the eventual purchaser) gets the benefit of enhanced development value of property following change of use.
8. Boards must ensure that the relevant procedures relating to closure of hospital property are followed.
9. Boards must carry out trawl procedures, in accordance with Management Executive guidance, to identify any interest from a Scottish Office Department in a property and negotiate direct with any prospective purchasers who express an interest with the full involvement of the District Valuer.

10. Boards must ensure that disposals recognise the rights of former owners and in the case of staff houses reflect the Government's right to buy policy.

11. Off the market sales (which should occur only in exceptional cases) should take place only if there is explicit agreement from the District Valuer and commercial agent that this is the best course in line with the land transactions guidance.

12. Normally surplus property should be sold. It should only be leased if this is the only option for estate management reasons (eg, temporary let of accommodation) or if professional advice indicates that the net present value of the future income stream would be greater than that accruing from outright sale.

13. In the light of professional advice, Boards should consider in every case whether clawback/right of pre-emption/title restriction or other provision covering future change of use or other circumstances is required. Clawback or a right of pre-emption or both should be included in the terms of sale for all off-market disposals (unless a general waiver has been agreed).

MARKETING

14. Open market sales and the granting of leases should be handled by a qualified selling agent chosen on a competitive basis. (If a Board has a number of small sales, it is open to them to negotiate a contract with an agent covering all these properties.)

15. Property should always be offered for sale or lease on the open market for the best price unless there is a priority claim from a Scottish Office Department or the proposed purchase falls within preferential categories defined in the land transactions guidance. The District Valuer and selling agent if appointed must advise on the acceptance of offers in all cases.

CONCLUSION OF SALE

16. Boards are required to complete the appropriate certification for all property transactions other than sales of staff houses under £30,000 and to submit such certification to the Management Executive as required.

17. Boards must ensure, with the advice of Central Legal Office, that the legal arrangements governing property disposals provide the maximum possible protection of the Secretary of State's interests.

APPROVALS FROM CHIEF EXECUTIVE

18. The Chief Executive's approval must be sought in the circumstances detailed at Annex D.

NHS in Scotland
Management Executive

PROPERTY TRANSACTIONS PROCEDURES: CHANGES TO PROPERTY TRANSACTIONS GUIDANCE EMBODIED IN CIRCULAR SHHD/DGM(1989)43 TO BE OPERATIVE FROM MAY 1992

1. The changes to the land transactions guidance embodied in circular SHHD/DGM(1989)43 issued in 1989, which are to operate from May 1992, are noted below. Where changes are not noted below the 1989 guidance applies as before. These changes and further changes to reflect experience of the guidance will be incorporated in revised land transactions guidance due to be issued by 1 July.

2. At this stage the changes relate only to Guidance Notes A, C, E and to a minor extent D of the 1989 circular; the need for changes to the guidance on property acquisition (Guidance Note B) and for additional changes to the guidance on house sales (Guidance Note D) and leasing of NHS property (Guidance Note E) is being considered separately. Any changes will be reflected in the revised land transactions guidance. The current changes are as follows:

Guidance Note A: General Guidance

<u>Paragraph</u>	<u>Change</u>
4 and 5	Superseded by paragraphs 7-19 of Annex A to this note dealing with respective responsibilities.
7	After "followed" delete ":-" and add "unless individual delegated limits have been notified to particular Boards:-"
7(d)	Delete existing wording and substitute "(d) Disposal of property by lease (including extension of an existing lease), where the term of the lease (including any extension) is less than 21 years and where the rent (or estimated rental, if the rent is not fixed) does not exceed £20,000 per annum unless a lease as at (e) below is involved.
7	Insert :"(e) Disposal of property by lease for the purposes of provision of gas or electricity services provided that the District Valuer has advised that (i) he is content with the terms and conditions of the agreement and (ii) is satisfied that such a lease will not prejudice future disposal of NHS property in the area."
8 and 9	Superseded by Annex D to this note dealing with issues requiring the Chief Executive's approval.
22(b)	Superseded by Annex H to this note dealing with trawl procedures.

22 - sub-paragraph following (g) commencing "The Health Board" Superseded by Annex D to this note dealing with issues requiring the Chief Executive's approval

23 - final sentence Superseded by Annex D to this note dealing with issues requiring the Chief Executive's approval.

24 Wording still stands apart from the final sentence which should be deleted and substituted with "Until 31 March 1994 Health Boards retain 80% of property disposal receipts - the remaining 20% being allocated by the Management Executive to benefit the NHS capital programme".

Guidance Note C: Guidance on Sale of Property

Paragraph Change

10 Superseded by Annex D to this note dealing with issues requiring the Chief Executive's approval.

13 - 3rd sentence from end Boards need not necessarily consult the Management Executive before any appeal is put in hand although they should have regard to any potential for controversy over such action which could inspire Ministerial interest and consult the Executive if appropriate.

14(a) No change to these provisions but Boards should note that where Crichel Down applies, any proposal to dispose of land for another purpose to a Government Department rather than to the previous owners should be referred to the Management Executive (because Ministerial authority may be required for such action).

14(b) Superseded by Annex H to this note dealing with trawl procedures.

14 - sub-paragraph following (g) commencing "The Health Board" Superseded by Annex D to this note dealing with issues requiring the Chief Executive's approval.

19 - from "In any case" at line 7 to end of paragraph This part of paragraph superseded by Annex D to this note dealing with issues requiring the Chief Executive's approval.

Appendix 1 to Guidance Note C

Paragraph Change

2a Appointment of marketing agents is now mandatory for all sales other than modest individual

staff houses.

2c - at column
for "EXPERT
ADVICE ETC"

Boards now conduct the trawl procedures and do not therefore require the Management Executive to identify any claim by another function of the Secretary of State. The need to notify the Management Executive of priority claims identified is governed by Annex D to this note dealing with the issues requiring the Chief Executive's approval.

3d

The need for the Management Executive's consent to acceptance of an offer is governed by Annex D to this note dealing with issues requiring the Chief Executive's approval.

Appendix 3 to Guidance Note C

Paragraph

Change

Whole Appendix

Notification to Department no longer required for trawl purposes since this work is carried out by Boards. The requirements are governed by Annex H to this note dealing with trawl procedures.

Guidance Note D:

Sale of Houses to Sitting Tenants

Change

5

There is now no requirement to consult the Management Executive in cases where a Board wishes to offer a tenant the opportunity to purchase a house with an open market value in excess of £60,000.

Guidance Note E: Guidance on Leasing of NHS Property

Paragraph

Change

4

Reference in first sentence is now to Annex A to this note.

Paragraph

Change

5 - first sentence

Delete the existing wording of first sentence and substitute "Health Boards have delegated authority to dispose of property by lease (including the extension of an existing lease), where the term of the lease (including any extension) is less than 21 years and where the rent (or estimated rental, if the rent is not fixed) does not exceed £20,000 per annum unless a minor lease is involved. For the purposes of this guidance a minor lease is one which covers the provision of gas or electricity services. Boards have delegated authority to deal with these minor leases provided that the District Valuer has advised that (i) he is content with the terms and conditions of the agreement and (ii) is

satisfied that such a lease will not prejudice future disposal of NHS property in the area. If the District Valuer cannot give such advice, the case should be referred to the Management Executive".

5

Delete the rest of paragraph 5: the need for consultation with the Management Executive is now governed by Annex D to this note.

PROPERTY TRANSACTIONS PROCEDURES: ISSUES REQUIRING CHIEF EXECUTIVE'S AUTHORISATION: SALE/LEASE BY NHS

The Chief Executive's approval must be sought for the following:

Transactions below a Board's delegated limit.

1. Acceptance of an off-the-market offer from a non-public body (eg individual or commercial organisation).

2. Preferential disposal at below market value or by concessionary lease where the total value of the concessionary lease exceeds £2500.

3. Unconventional finance schemes where the total capital cost of the assets involved exceed £100,000.

4. Disposal of land for another purpose to a Government Department rather than to the previous owners in circumstances where the Crichton Down rules apply (Ministerial authority required).

5. Any proposal to depart from the mandatory requirements of Annex B.

6. Minor leases where the District Valuer cannot give the advice required for the handling of such leases by Boards/CSA.

7. Any case, following trawl, where a Board has a preference for disposal to a priority health related interest, but where a strong positive interest has been registered by a Department of the Scottish Office.

8. Any proposals for delaying disposal of property

Transactions above a Board's delegated limit.

1. Proposed acceptance of (i) an offer which is not the highest in monetary terms or (ii) an offer other than the one which the District Valuer or CLO recommends should be accepted or (iii) an offer which is less than the District Valuer's valuation.

2. Preferential disposal eg off-market sales, disposals to health related interests and proposed sale at below market value.

3. Excambions (exchange of property as an alternative to selling one piece of property and buying another).

4. Unconventional finance schemes.

5. Any proposals for delaying disposal of property.

6. Disposal of land for another purpose to a Government Department rather than to the previous owners in circumstances where the Crichton Down rules apply (Ministerial authority required).

7. A proposal to act contrary to the District Valuer's or Central Legal Office's advice where that is related to their mandatory responsibilities.

8. Any proposal to depart from the mandatory requirements of Annex B.

9. Disposal of land or property which would continue to be used for the purposes of the NHS by another party (eg health centre sales or partnership ventures).

9. Any proposal to accept a late bid or revision to an offer.

10. All leases.

11. Any case, following trawl, where a Board has a preference for disposal to a priority health related interest, but where a strong positive interest has been registered by a Department of the Scottish Office.

Notes

a. Where the Chief Executive's approval is being sought, this must be done in the required form as outlined at Annex E.

b. Sales and leases of property should be handled in accordance with the detailed delegated limits and advice contained in the Land Transactions Guidance and any other guidance issued by the Management Executive.

c. Notwithstanding their responsibility for property transactions, Boards/CSA are required to inform the Management Executive of any transactions which could:

(i) lead to Ministerial interest or be brought to the attention of Ministers;

(ii) give rise to related judicial proceedings;

(iii) inspire suggestions of conflict between the Secretary of State's NHS interests and his other responsibilities eg for appeals under planning procedures.

In these circumstances Boards should, as soon as they are aware of such interests, provide the Management Executive with defensive briefing which can be used by Ministers or the Executive in dealing with any questions raised.

d. The Management Executive reserve the right to call in any property transaction for their own management and decision - although this right would be exercised only in the most exceptional circumstances.

NHS Management Executive

PROPERTY TRANSACTIONS PROCEDURES: PROCEDURES FOR SEEKING CHIEF EXECUTIVE'S APPROVAL

1. The provision of supporting information including the appropriate professional advice, is essential when Boards seek the Chief Executive's approval on particular issues. Otherwise resources will be wasted and decisions delayed. The speed of decision making in the Management Executive is directly related to the quality of the supporting information provided by Boards. It is essential therefore that Boards seek the Chief Executive's approval in the way described in this guidance note. If the Board's case is not submitted to the Chief Executive in the prescribed form, the papers will be returned to the Board and no further action taken by the Executive until all the necessary supporting information is available.

2. Submissions to the Chief Executive must be based on specific recommendations from the Board's General Manager in the light of the necessary preparatory action. Only in the most exceptional circumstances should the Chief Executive's opinion be sought before thorough consideration of all the options and formulation of a firm recommendation by the Board. Generally, Boards should recommend on the basis that the necessary action can be implemented as soon as the Chief Executive's approval has been obtained.

3. The necessary approval from the Chief Executive should normally be sought at the stage when offers for property have been submitted for acceptance to the Board (although earlier approaches will clearly be necessary in some cases). In these circumstances the Chief Executive will expect to have before him all the necessary supporting information to enable him to make a decision without further reference to the Board. He would not expect to need to question the Board's decision; his intention would be to do so only if there is a significant breach in procedures or a deficiency in the supporting information which could lead to criticism by the National Audit Office or the Public Accounts Committee.

4. These requirements place a heavy responsibility on Boards given the short time that can be available for acceptance of an offer for property. But given adequate planning and preparation by Boards, decision making within the Management Executive should be significantly quicker.

5. All approvals sought under these arrangements must be submitted by the Board's General Manager direct to the Chief Executive. Fully completed certification (see Annex F) must be included with the General Manager's submission unless exceptionally the Chief Executive is being consulted before offers are available for consideration. Any sections of the certification form which are clearly not applicable should be deleted. While there may be differences of detail, the information requirements for approvals will differ little in depth or content whether or not offers are being submitted for the Chief Executive's consideration and the Boards should not omit to provide the necessary supporting information listed at the Appendix simply because the offer stage has not been reached. Nor should such supporting information be omitted because of timing considerations. Transactions must be carried out quickly but speed is not the paramount consideration; it is most important to ensure that the outcome is the best available for the public interest and the Chief

Executive will not make a decision on a case if this cannot be demonstrated, regardless of timing (or presentational) considerations.

6. Other than in the most exceptional circumstances, Boards should allow at least 10 working days for the Chief Executive's consideration of submissions. The Chief Executive will endeavour to work within this timescale (provided all the necessary supporting information has been submitted by the Board) although additional time may be required in particularly complex or unusual transactions, especially where Ministerial consideration is required. References to the Chief Executive will however be given top priority and every effort will be made to give Boards a response within 5-10 working days.

7. Board General Managers are responsible for consulting the Chief Executive in any circumstances where they have reservations about completing certification in respect of a particular transaction.

8. The Appendix is a skeleton form of submission detailing the information which should be included where the Chief Executive's approval is required for a proposed course of action.

NHS in Scotland
Management Executive

PROCEDURE FOR SEEKING CHIEF EXECUTIVE'S APPROVAL: SKELETON
FORM OF SUBMISSION (headings for sections, suggested content in
square brackets)

Summary

[Name and location of property; amount of money involved; Board's
recommendation]

Background

[General background to proposal including date of closure approval; date
property declared surplus and any unusual circumstances; investigation of
development opportunities undertaken]

Closure, Trawl and Crichel Down Procedures

[Confirmation that necessary procedures have been followed in relation to
trawls, hospital closures and Crichel Down].

Planning Position

[Structure and local plan position: current planning status of property;
any planning or infrastructure difficulties; whether the current planning
consent or development allowed for in the planning brief represents the
most valuable consent available - if not what uses would produce a higher
disposal price; timing considerations; comparison of values from different
uses (based on District Valuer's advice); any planning potential in the
property which has not been fully clarified to be explained]

Marketing (if appropriate)

[Name of marketing agent and duration of marketing campaign; any
departure from normal marketing practice; any difficulties encountered in
the marketing process]

Offers

[Names of bidders and offer or offers received (offers should be detailed
in an annex which should include the name of offerer, offer, any
significant conditions in offers and the agent's comments on each offer.
Copies of each offer letter should be submitted)]

Service Implications

[Implications for NHS services of agreeing the Board's recommendation.]

Clawback/Rights of Pre-emption

[Confirmation that the need for a clawback or right of pre-emption has
been considered by the Board; details of any proposed clawback or right
of pre-emption - ideally the wording to be proposed to the purchaser;
confirmation that professional advisers have agreed the form of clawback
or right of pre-emption; any anticipated difficulties on clawback right of
pre-emption with the purchaser]

Summary of Professional Advice

[The advice and recommendations of the District Valuer, planning/marketing agents and CLO; any advice received from Estate Services/Central Services; note of any action proposed by the Board which is contrary to the professional advice received (copies of letters containing the advice of the District Valuer, planning/marketing agents and CLO must be attached); if an off the market sale is proposed, the supporting information must include explicit agreement from the District Valuer and commercial agent that this is the best course in the line with the land transactions guidance; any legal difficulties in completing the transaction foreseen by CLO]

Other Options

[Consideration of other options undertaken before conclusions on current recommendation were reached; any appropriate financial appraisal of other options (details of option appraisals undertaken should be attached as an annex); the basis for rejection of other options; confirmation that in relation to other options Board's recommendation would produce an outcome on price which is the best obtainable for the public interest]

Board's Consideration of Offers for Property and Conclusions

[Board's view on the offer or offers received; their reasons for wishing to accept a particular offer including financial implications; any political or presentational implications arising from accepting the Board's recommendations; timing considerations]

Vote Management Implications

[Any implications for the Board's overall financial position arising from their recommendation]

Certification

[Confirmation that certification has been completed in accordance with Management Executive requirements (copy of duly completed certificate to be attached)]

Board's Recommendation to Chief Executive

[Board's recommendation to the Chief Executive; any caveat to the recommendation; any conditions the Board suggests for acceptance of offers proposed]

NOTES

1. The suggested points to be included in submissions are not necessarily exhaustive. Boards should include any other information which the Chief Executive may require to consider the matter; since each transaction is different, the Chief Executive may request information additional to that noted above from Boards before reaching a conclusion.

2. Where a Board is seeking the Chief Executive's approval in circumstances where offers for a property have not been submitted, the supporting information will clearly depart from the strict terms of the above. But most of the above information will still be necessary in such circumstances albeit in a slightly different form. Boards should not too readily omit to provide the suggested supporting information simply because offers are not being proposed for the Chief Executive's acceptance. Boards should note that completed certification must be included with the General Manager's submission unless exceptionally the Chief Executive is being consulted before offers are available for consideration. Copies of certification received from professional advisers and the Board's In-house Property Manager should also be included in the submission to the Chief Executive.

NHS in Scotland
Management Executive

**PROPERTY TRANSACTION PROCEDURES
CERTIFICATION ARRANGEMENTS**

1. The purpose of the new certification arrangements is to ensure that the increased delegated authority on disposals provided for in the new procedures is properly recognised and acted upon by Board General Managers as sub-accounting officers.
2. Board General Managers as sub-accounting officers for directly managed units are responsible for ensuring that the property transaction procedures are followed and must be able to demonstrate, publicly if necessary, that the best obtainable outcome for the public interest has been achieved in each case. In this respect General Managers are answerable to the Chief Executive as Accounting Officer and to the Public Accounts Committee of the House of Commons. These responsibilities apply to all cases.
3. General Managers must complete Certificate PTC for every sale or grant of lease, other than for sales of staff houses valued at under £30,000.
4. These arrangements generally apply with immediate effect. It is recognised however that in a very few cases completion of certification may be difficult where transactions are currently far advanced, and disposals need to be concluded quickly. If any difficulties arise during a transactional period until 22 May 1992, Boards should raise them with the Management Executive who will consider whether certification requirements should, exceptionally, be waived.
5. General Managers should seek supporting verification from those responsible for advising them on particular transactions before completing form PTC, eg Solicitors, District Valuer, Planning/Marketing Agents, the Board's in-house property manager. A sample of a suitable form is attached.
6. Certification should be signed at the point where an offer is to be accepted or, in the case of acceptance of offers requiring the Chief Executive's approval, signed certification should be supplied with the other papers submitted to the Chief Executive.

PROPERTY TRANSACTION CERTIFICATION: GENERAL MANAGER

HEALTH BOARD

PROPERTY

.....

.....

NATURE OF DISPOSAL (eg sale, lease)

PROCEEDS OR LEASE
VALUE AND TERM

DATE OF SETTLEMENT OF
TRANSACTION (When Available)

I am satisfied that this transaction has been dealt with:

- in accordance with in-force mandatory procedures and requirements issued by the Management Executive
- taking proper and reasonable account of guidance issued by the Management Executive
- taking proper and reasonable account of the advice received from professional advisers

and that consequently the proceeds/lease value, and the conditions attached thereto are the best obtainable for the public interest.

SIGNED (at stage of acceptance of offer/or before transaction is submitted for Chief Executive's approval)

.....General Manager

DATE

SIGNED (when proceeds received)

.....General Manager

DATE

CHANGES (Please describe here and initial any changes in the transaction between acceptance of offer and receipt of proceeds)

.....
.....
.....
.....

PROPERTY TRANSACTION CERTIFICATION:
ADVICE TO GENERAL MANAGER

SAMPLE

DETAILS

1. Health Board
2. Address and Property Involved
.....
.....
.....
.....
.....
.....
.....
.....
3. Nature of Disposal (eg sale, lease)
4. Proceeds or lease value £.....
5. Date of Settlement of Transaction (when available)

PROFESSIONAL ADVICE TO GENERAL MANAGER

6. District Valuer's Advice

TO BOARD GENERAL MANAGER

I am satisfied that:

- a. all appropriate steps have been taken to enhance the proceeds from the disposal of the above property by taking advantage of the property's potential for development or change of use;
- b. the proceeds/lease value and conditions of disposal in the above transaction are the best obtainable for the public interest in terms of the NHS Management Executive's property transactions guidance.
- c. (in the case of off-market sales other than for health related or Government functions) it is clear beyond doubt that one purchaser has submitted the best bid which might not be obtained by open tender.

Signed (at stage of acceptance of offer/or before transaction is submitted for Chief Executive's approval)

.....District Valuer

.....Date

7. Planning/Marketing Agent's Advice (if appropriate)

TO BOARD GENERAL MANAGER

I am satisfied that:

- a. the property has been given the maximum possible exposure to the market and that further marketing within the foreseeable future will not yield a better price/lease value;
- b. our investigation of the future planning potential of the above property has completely clarified the issue in terms conveyed to the Health Board;
- c. (for sales) in the light of the planning position, and other factors, clawback or other provision for further payment to the Health Board above the purchase price after disposal is/is not required and that suitable advice on this issue has been given to the Board;
- d. the proceeds/lease value and conditions of disposal obtained in the above transaction are the best obtainable for the public interest in terms of the Management Executive's property transactions guidance.
- e. (in the case of off-market sales other than for health related or Government functions) it is clear beyond doubt that one purchaser has submitted the best bid which might not be obtained by open tender.

Signed

(at stage of acceptance of offer/or before transaction is submitted for Chief Executive's approval).....Partner

Date.....

Agent's Name and Address

.....
.....
.....

8. Advice of Legal Adviser

TO BOARD GENERAL MANAGER

I, the legal adviser, confirm that the legal advice tendered to you in respect of this transaction was:

- consistent with your instructions, and
- took proper and reasonable account of relevant guidance issued to you by the Management Executive and copied to me as part of my instructions.

Signed (at stage of acceptance of offer/or before transaction is submitted for Chief Executive's approval)..... Legal Adviser

Date.....

Signed (when proceeds received)..... Legal Adviser

Date.....

ADVICE TO GENERAL MANAGER FROM BOARD'S IN-HOUSE PROPERTY MANAGER:

Property Manager's Advice

TO BOARD GENERAL MANAGER

9. I am satisfied that this transaction has been dealt with:

- in accordance with in-force mandatory procedures and requirements issued by the Management Executive
- taking proper and reasonable account of guidance issued by the Management Executive
- taking proper and reasonable account of the advice received from professional advisers

and that consequently the proceeds/lease value, and the conditions attached thereto are the best obtainable for the public interest.

Signed (at stage of acceptance of offer/or before transaction is submitted for Chief Executive's approval).....

Title.....

Signed (when proceeds received).....

Title.....

The Board's property manager should note below any changes in the transaction between acceptance of offer and receipt of proceeds.

QUALIFICATIONS

10. Any qualifications which professional advisers or the Board's in-house property manager may wish to record should be entered below (if additional space is required a separate sheet should be used).

PROPERTY TRANSACTIONS PROCEDURES: MONITORING PROCEDURES

Introduction

1. The introduction of new procedures for the handling of property transactions is accompanied by new arrangements for monitoring. In return for the increased operational independence Boards will have under the new arrangements, they will be monitored on their implementation of the procedures. The Chief Executive will consider the scope for further transfer of responsibilities if the new arrangements work well - and a reduction in responsibilities if they do not. Similarly where a particular Board has been granted increased delegated authority, the Chief Executive will consider a further increase in delegation if this delegation is successful - and a reduction in the delegated limit if it is not.

Monitoring Proformas

2. Monitoring will be carried out on the basis of an annual cycle. The work will be sub-contracted to Estates Services (CS-ES) of the Scottish Office (the Chief Estates Officer) who will provide monitoring reports for each Board for the Chief Executive. The basis for monitoring will be a monitoring proforma which should be completed by Boards for every transaction. A copy of the form, which should be copied locally, is attached. These forms will be used to assist the Management Executive to select cases for detailed examination during the annual monitoring exercise. Because of the nature of the new land transactions procedures, monitoring will cover cases both above and below a Board's delegated limit.

Submission of Monitoring Proformas

3. The annual monitoring exercise will commence in May each year when Boards will be asked to provide details of property transactions completed since the last monitoring exercise. Boards will be asked to provide completed monitoring proformas for every disposal valued in excess of £100,000 or grant of lease valued in excess of £10,000 rental per annum, together with any appropriate certification required. Boards will also be asked to provide information on transactions in other categories (see paragraph 4). If transactions in these categories are selected for detailed monitoring, Boards will be asked to send the Management Executive a copy of the completed monitoring proforma and any required certification.

Monitoring Categories

4. For the purposes of monitoring, transactions will be broken down into the following categories:

4.1 sales involving proceeds:

- 4.1.1 of under £100,000 or,
- 4.1.2 in excess of £100,000;

4.2 sale of NHS houses/residential accommodation:

- 4.2.1 to sitting tenants,
- 4.2.2 on the open market;
- 4.3 sales related to unconventional finance projects;
- 4.4 grant of lease of a value:
 - 4.4.1 of under £10,000 or,
 - 4.4.2 in excess of £10,000;
- 4.5 acquisition of property:
 - 4.5.1 by purchase,
 - 4.5.2 by lease;
- 4.6 transactions involving excambions.

Sample Monitoring

5. From the completed proformas, the Management Executive and CS-ES will select a sample of cases for detailed inspection. The intention is to select up to 50% of cases for inspection or all cases if only a few are involved. Inspection of case files will normally be undertaken in the course of a visit to the Health Board. Detailed arrangements for annual monitoring exercises will be issued to Boards before they commence.

6. In preparing their reports for the Chief Executive on individual transactions, CS/ES will use the following categorisation:

- A. transaction appears to have been properly conducted;
- B. there are reservations on how the transaction was conducted;
- C. a serious error of judgment has occurred in the handling of the transaction.

Monitoring Cycle

7. From a start in May, the monitoring exercise itself will normally be carried out from July to October each year. CS-ES will prepare a monitoring report for each Board which will form part of a report by the Management Executive to the Chief Executive by 31 December of each year. The Executive's report will contain an Action Plan for implementation before the next round of monitoring.

NHS in Scotland
Management Executive

16. Was Advice of Property Planning Marketing Agent Sought? YES/NO
17. District Valuer's Valuation/ Recommended rental £.....
18. Was Property Sold/Leased on Open Market to Highest Bidder (If "No" give brief details) YES/NO
19. If Property Leased Give Reason Why Property Not Sold
20. Was Clawback/Right of Pre-emption/ Use Restriction or Other Provision Covering Future Change in Circumstances Included in Terms of Sale YES/NO
21. Date Any Necessary Approval from Chief Executive Sought
22. Date of Acceptance of Offer
23. Date Proceeds Received/Lease Commenced
- C. PURCHASE BY/LEASE TO NHS
24. Date District Valuer's Advice Sought
25. Date Central Legal Office Advice Sought
26. Date of Option Appraisal
27. If Leased, Reason Why Property Not Purchased

28. Date Any Necessary Approval From Chief Executive Sought

29. Date of acceptance of Board's Offer
for Property

30. Date Purchase Price Paid/Lease to
Board Commenced

D. CONTACT POINT AT BOARD

31. Name

32. Address

.....

.....

.....

.....

33. Telephone Number

34. Date Monitoring Form Completed

PROPERTY TRANSACTIONS PROCEDURES: TRAWL PROCEDURES

General

1. In order to ensure that the Secretary of State is not put in the position of competing on the open-market to acquire for one function land or property which he is selling because it is surplus to another function, Health Boards are required, when land or property under their management is deemed surplus to NHS requirements, to carry out the limited trawl of The Scottish Office hitherto conducted by the Management Executive. It is of course no longer policy to offer land or property beforehand to local authorities or to Government Departments other than The Scottish Office.

Exceptions

2. It should be noted that trawl action is not necessary when:-

2.1 the property is a self-contained flat, or house, which is to be sold to the sitting tenant who qualifies for a discount on the purchase price under the Government's "right to buy" policy and,

2.2 the proposal is to dispose of Health Centre property occupied by a GP practice who wish to purchase the property for the purpose of providing health centre/surgery accommodation.

Procedures

3. The Scottish Office contacts at Appendix 6 will have 2 weeks to consider any trawl notification. Boards must notify Central Legal Office within 3 weeks whether, or not, a strong positive interest has been expressed on that notification. Any prospective purchaser will be given a further 4 weeks to provide final confirmation of its interest. Boards should consider sympathetically any request for a (normally) short, further extension if they are satisfied that the prospective purchaser has reasonable grounds, such as awaiting final results of site investigation work, or awaiting funding approval: there are unlikely to be any other acceptable grounds.

4. The District Valuer has a critical role where interest is expressed, being solely responsible for determining the price at which the land/property should transfer - normally the existing price or value for alternative permissible use, whichever is the higher. Boards should consider, and seek advice from the District Valuer (and CLO where necessary) on the inclusion of any special terms and conditions (eg clawback to protect the health interests of the Secretary of State); the fact that the sale is to another Government organisation should not necessarily lead to a relaxed stance on this score since the consideration for Boards is protecting the Secretary of State's health interests. Once the land/property is transferred, an amount equivalent to 80 per cent of the transfer price will be credited to the Board's account - the balance of 20 per cent currently being retained by the Management Executive in terms of paragraph 2.11 of circular SHHD/DGM(1990)94 dated 29 November 1990.

APPENDIX 4 TO ANNEX H

A N Other
Scottish Health Service Central Legal
Office
Trinity Park House
South Trinity Road
EDINBURGH
EH5 3SE

Dear

DISPOSAL OF SURPLUS LAND AND PROPERTY
25 NEW STREET, NEWTOWN

1. I write to confirm that particulars of the property listed above have been duly trawled around The Scottish Office, and no interest has been shown.
2. We are now making the necessary arrangements to dispose of the property on the open-market.

Yours sincerely

A NEWMAN

District Valuer

Dear

DISPOSAL OF SURPLUS LAND AND PROPERTY
LAND AT NEW STREET, NEWTOWN

I write to confirm that the attached particulars of the land listed above have been trawled within The Scottish Office, and a strong positive interest in purchasing the site has been expressed by "XYZ" ie the resposdee. A final decision from the latter is expected no later than ..
.....

Meanwhile, I should be grateful if you would survey the site and let me have as soon as possible your valuation report including the price you determine for the transfer of the site in line with the Management Executive's land transactions guidance. We consider, but would welcome your advice and recommendations, that there is [no need]/[is a need for the imposition of special condition(s) to protect the health interests of the Secretary of State and the Board, and these are set out below]. Both "XYZ" and the Board will provide representations at your convenience to assist in your consideration of the transfer price.

[Insert optional paragraph here on any special condition(s).]

I am sending copies of this letter to CLO and "XYZ". Your report will be copied on receipt to the latter and to CLO.

Yours sincerely

A N OTHER

[delete entries in square brackets as appropriate.]

TRAWL CIRCULATION LIST

Mr R I K White (Tel: 031 244 3629)
Chief Estates Officer
The Scottish Office
Estates Services Unit
c/o Room 37B
James Craig Walk
Edinburgh
EH1 3BA

[NB To be notified about every sale except flats, houses and garages].

Mr B O'Reilly (Tel: 031 244 8764)
The Scottish Office Home and
Health Department
Scottish Prison Service
Room 329
Calton House
Edinburgh
EH12 9HW

Mr D Tait (Tel: 031 244 6055)
The Scottish Office Agriculture
and Fisheries Department
Room 436
Pentland House
Edinburgh
EH14 1TY

Mr A W Denham (Tel: 031 244 4226)
Assistant Chief Planner
The Scottish Office Environment
Department
Room 5/86
New St Andrew's House
Edinburgh
EH1 3TG

[To be notified about every sale except flats, houses and garages]

Mr M E Wilson (Tel: 031 244 5393)
The Scottish Office Education
Department
Room 330
43 Jeffrey Street
Edinburgh EH1 1DG

Mr J Richardson (Tel: 031 244 4099)
The Scottish Office Industry
Department
Roads Directorate
Room 3/77
New St Andrew's House
Edinburgh EH1 3TG

TRAWL CIRCULATION LIST (CONTINUED)

Mr R Morrison
The Scottish Office Industry Department
Roads Directorate (Project Team 1)
Room 4/73
New St Andrew's House
Edinburgh
EH1 3TG (Tel: 031 244 4354)

Mr R Pryor
The Scottish Office Industry Department
Roads Directorate (Project Team 2)
Room 4/66
New St Andrew's House
Edinburgh
EH1 3TG (Tel: 031 244 4119)

Mr S Hughes
The Scottish Office Industry Department
Scottish Enterprise & Employment Division
Room 5/13
New St Andrew's House
Edinburgh
EH1 3TG (Tel: 031 244 4446)

Mrs C Peden
The Scottish Office Industry Department
New Towns Division (Branch 1)
Room 5/38
New St Andrew's House
Edinburgh
EH1 3TG (Tel: 031 244 4636)

Miss Denise Booth
The Scottish Office
National Health Service in Scotland
Estates Division
Management Executive 2/3
Room 355
St Andrew's House
EDINBURGH EH1 3DG (Tel: 031 244 2427)