



National Health Service in Scotland
Management Executive

St. Andrew's House
Edinburgh EH1 3DG

Dear Colleague

HEALTH SERVICE ESTATE MANAGEMENT:
SALE OF HEALTH CENTRES

Summary

1. This letter, and the attached guidance note, introduce the procedures to be followed in any sale of health centres - and other medical practice premises owned by the Secretary of State - to the practices which operate from them. The guidance note should be considered as an addition to MEL(1992)8, becoming Annex I. A revised version of Annex D to MEL(1992)8, reflecting the approval procedures contained in the guidance note, is also attached.

Action

2. General Managers of Boards should:

2.1 introduce the new procedures with immediate effect;

2.2 bring this letter to the notice of all staff responsible for property transactions, drawing their attention in particular to the consultation requirements set out in paragraphs 18 and 19 of the guidance note and to the need for execution of instruments in the Management Executive.

Scope of Letter

3. Although the terms of this letter impact primarily on Boards, it is also being copied to the General Managers of the State Hospital and the Health Education Board for Scotland for information. This letter is also copied to the Chief Executives and the Chief Executive Designate of NHS Trusts for information; the precise application of this issue for Trusts is currently under discussion within the Management Executive and guidance for Trusts will be issued in due course.

4. References to "Health Boards" and "Boards" in the guidance note should be read as meaning also the Common Services Agency.

11 September 1992

Addressees

For action:

General Managers,
Health Boards

General Manager,
Common Services
Agency,

For information:

Chief Executives,
NHS Trusts

Chief Executive
Designate,
NHS Trusts

General Manager,
State Hospital

General Manager,
Health Education Board
for Scotland

To be copied to
Unit General Managers
for action as
appropriate.

Enquiries to:

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

Yours sincerely

Richard McCallum

H R McCALLUM
Director of Estates

**PROPERTY TRANSACTIONS PROCEDURES:
SALE OF HEALTH CENTRES**Introduction

1. This guidance note gives guidance on the sale of health centres - and other medical practice premises owned by the Secretary of State - to the practices which operate from them.
2. Health centres have for many years served the purpose of improving practice premises while bringing together under one roof the primary care team. There is no weakening of the commitment to building and operating health centres with that aim. But many practices operate, in a similarly-integrated manner, from high-quality premises owned by the practice itself. There is no reason of principle why health centres should not be sold, and operated in a similar manner. The increasing integration of GP and Community Health Services should be recognised in any such sale arrangements.
3. Health centres may therefore be sold to the medical practices which operate from them. But such sales cannot be fully delegated to Health Boards because, since the health centres are still required for the purpose of the health service, the powers of disposal under Section 79(1A) of the National Health Service (Scotland) Act 1978 cannot be used. Other powers of disposal by the Secretary of State must therefore be used and, if a Health Board wishes to sell a health centre, it must (without giving any commitment to possible buyers) consult the Management Executive as outlined at paragraphs 18, 19 and 20.
4. Although this note is written primarily in terms of sales to medical practitioners, similar principles apply to proposals from other practitioners (eg dentists) wishing to purchase health centre accommodation from which they operate.

Cost/Rent Scheme

5. Under these arrangements, premises will not be eligible for purchase under the cost rent scheme, but will subsequently qualify for reimbursement under the arrangements for rent and rates. Application for cost rent and improvement grants can be made in the normal way where the premises are modified after purchase.

Costs and Benefits

6. Health Boards must look at each proposal to sell a health centre on its own merits and should assess the costs and benefits of sale.
7. The following benefits may be realised:-
 - a. The proceeds of the sale. The District Valuer can provide advice, in advance of a decision about sale, on the likely value of the property (on the basis set out in paragraph 20 below).
 - b. Reduced maintenance and administrative costs, because the Health Board would no longer be responsible for the entire building.

Pharmacies

15. In the case of pharmacies, particular care may be necessary to ensure that sale rather than lease offers the best return for the NHS. Sale of pharmacy accommodation may need to be accompanied by suitable safeguards in the legal agreements to ensure that the Board enjoys the benefits of any subsequent increase in turnover or rental income. It should be borne in mind that the proximity of a pharmacy to a medical practice, even where physically separate, materially increases the rent and thus the capital value of premises.

Future Use

16. In considering the retention of accommodation by the Health Board for community health or allied purposes, the Board should ensure that sufficient area is reserved for future use since the Board could not insist on any addition to the area leased back after the sale. The terms of the lease would have to be wide enough to permit the community health service to sub-lease without requiring the consent of the landlord. In some cases, Boards may need to give thought to whether the sale agreements should include arrangements for any physical extension of the building accommodating community health facilities.

Protection of Board's and Secretary of State's Interests

17. It is the responsibility of the Board, as advised by Central Legal Office, to ensure that the terms of sale adequately protect their own and the Secretary of State's interests in maintaining the required community health facilities in the area concerned. Since the circumstances of sales may vary greatly, depending on the users and other aspects, the protection necessary and the legal means of doing so may need to be tailored to each case.

Procedure for Sale

18. If the total value of the property involved is £100,000 or under, and the annual rental of property leased back by the Board in the premises is £20,000 or less, the Board is free to conclude the sale terms with the practitioners if the prior written approval of the Chief Executive is not required for other reasons - see Annex D (of NHS MEL(1992) 8 of 1 May 1992) But because Boards' legislative powers are limited in this area [see paragraph 3 above and also paragraph 6 of MEL(1992)9] it is necessary for the execution of instruments for all such disposals to be carried out in the Management Executive. Certification from each professional adviser and from the responsible Board officers, as required by Annex F of MEL(1992)8, should be provided by Central Legal Office at this stage.

19. In the case of sale of properties exceeding a value of £100,000, or where the annual rental of property leased back by the Board in the premises is more than £20,000 per annum, the Chief Executive's authorisation is required before such a sale can be finally agreed with the practitioners (and the execution of instruments in the Management Executive will be required for such sales). These arrangements for consultation (and the need for the Management Executive to approach Treasury where a rental for lease back exceeds £20,000 per annum) should be borne in mind before any commitment to sell is given.

20. Where the Chief Executive's approval for a sale is being sought, full supporting information including an option appraisal (see paragraph 9) based on a provisional valuation by the District Valuer and an agreed basis of calculating the rental of the community health etc portion should be submitted. Details of the terms of sale agreed with Central Legal Office and the District Valuer should also be provided, together with all relevant certification in terms of Annex F of MEL(1992)8.

21. When the sale is agreed, the Health Board should write to the District Valuer (with a copy to the Chief Valuer, to the Central Legal Office and to the Management Executive) asking for a formal valuation of the property. The District Valuer will provide an open market valuation for the existing use of the property, taking account of the security of tenure for the community health and any other accommodation which is to be leased from the medical practice. At the same time the District Valuer should be asked to advise on any other aspects, such as development potential (see paragraph 12), which may be relevant to the terms of the sale. The Health Board should then instruct the Central Legal Office to make a formal offer on behalf of the Secretary of State to the practice, at the selling price recommended by the District Valuer. The District Valuer's valuation should not be departed from except with the approval of the Management Executive.

22. If the purchaser is unwilling to accept one, or more, of the conditions attached to the sale, the Board should seek the advice of the District Valuer and Central Legal Office on the implications of accepting the purchaser's wishes. A fresh approval should be sought from the Chief Executive should the Board wish to proceed against the advice of the District Valuer, Central Legal Office or other professional advisers (or if the basis on which the original approval was given has materially changed otherwise).

23. If the offer for sale is accepted, the Central Legal Office will carry out the necessary conveyancing on behalf of the Secretary of State. It is not necessary to offer the property on the open market or (in the case of property acquired by, or in the presence of, compulsory purchase powers to which the "Crichel Down" rules would otherwise apply - see Guidance Note C paragraph 14(a) of SHHD/DGM (1989)43) to former owners.

Other Proposals

24. Boards may also receive proposals from GPs for the purchase of surgery premises with little or no community health provision, or unused sites. Such proposals should be considered against the broad principles in this Note and take account of other parts of the land transactions guidance eg covering health related sales and the importance of avoiding piecemeal sales prejudicing wider disposal action. In the case of small surgery premises, the effort that should go into the appraisal will be a matter of judgement. Small expenditures generally justify less detailed appraisal than large expenditures but the principles of appraisal recorded at paragraph 9 still apply. In considering the sale of a site, other potential interest in the land and possible proceeds should be taken into account in the appraisal of options, with the assistance of the District Valuer. Consideration of the need for clawback may be particularly relevant where disposal of an unused site is involved (see paragraph 12).

NHS Management Executive

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 general 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.

Transactions above a Board's general 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 (for position on Health Centres/surgery premises see 12 and note e below) and proposed sale at below market value.

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. 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.

9. Disposal of land or property which would continue to be used for the purposes of the NHS by another party (eg partnership ventures - for position on Health Centres/surgery property see 10 and Note e below).

10. Sale of Health Centre/surgery property (or sites for such provision) where the total value of the property involved exceeds £100,000, or where the annual rental of any leased back premises within a property that is to be sold by the Board is more than £20,000 per annum.

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. 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.

12. Sale of Health Centre/surgery property (or sites for such provision) where the total value of the property involved exceeds £100,000, or where the annual rental of any leased back premises within a property that is to be sold by the Board is more than £20,000 per annum.

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 the 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.

e. Boards should note that although certain sales of Health Centre/surgery property can be concluded without the Chief Executive's approval, if his approval is not required for other reasons, the execution of instruments for all such disposals must be carried out in the Management Executive.