



NHS Management Executive
St. Andrew's House
Edinburgh EH1 3DG
31 May 1996
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Dear Colleague

**HEALTH SERVICE ESTATES MANAGEMENT:
REVISIONS TO NHS PROPERTY TRANSACTIONS
HANDBOOK**

Summary

1. This letter substantially increases the already significant delegation in respect of property transactions and promulgates other changes to the Property Transactions Handbook to reflect current policy and guidance.
2. The NHS Property Transaction Handbook, issued in May 1993 under MEL's(1993)72 and 73, consolidated extant guidance and promulgated revised procedures on property transactions. Three copies of revisions to the Handbook are attached.
3. The increases in delegation reflect the evidence of the existing arrangements provided by post-transaction monitoring and our commitment to increase self-governance. The Chief Executive need not now be notified at all of the following transactions:-

- ◆ disposals below market value;
- ◆ delays in the disposal of property;
- ◆ sales where the Valuer and Adviser are unable to agree;
- ◆ proposals to accept a late bid or a revision to an earlier offer;

Addressees

For action:
Chief Executives,
NHS Trusts

General Managers,
Health Boards

General Manager
State Hospitals Board
for Scotland

General Manager,
Common Services Agency

For information:
General Manager,
Health Education Board
for Scotland

Executive Director
SCPMDE

Enquiries to:

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- ♦ where a consortium of former owners wish to purchase land collectively;
- ♦ proposals to offer more than the valuation figure for a property; and
- ♦ sales of Health Centres and Surgeries with an annual lease back of more than £20,000.

Furthermore, thresholds for notification to the Chief Executive have been significantly increased for the grant of a concessionary lease and for acquisition by lease.

4. A Direction to Health Boards, the State Hospitals Board for Scotland and CSA giving effect to this increased delegation of responsibility is contained in Annex A. The attention of NHS Trusts is drawn to the attached Direction. Trusts are reminded, although the Direction does not apply to them, that it is expected that they will abide by Government requirements in relation to dealings with heritable property.

Action

5. The revised procedures take effect from 3 June 1996, although, for transactions already in progress only, Holding Bodies may wish to continue to use the existing guidelines.

6. Holding Bodies should:-

6.1 bring this letter to the notice of all staff responsible for property and finance matters;

6.2 replace the relevant existing pages of the Property Transaction Handbook with the enclosed revised pages; and

6.3 ensure that staffing and working arrangements allow the revised procedures to operate effectively.

7. In particular, Trusts are requested to :-

7.1 seek the NHS Chief Executive's consideration of any proposed transaction which falls within the ambit of the Direction contained in Annex A.

Other Information

8. In this letter the term Holding Body should be read as meaning NHS Trusts, Health Boards, the Common Services Agency and the State Hospitals Board for Scotland. The Handbook does not cover the Health Education Board for Scotland since their property transactions are handled under separate arrangements.

9. The revisions to the Handbook issued with this letter fall into three categories:-

9.1 major changes to reflect current policy in two areas (described more fully in paragraphs 10 and 11 below);

9.2 amendments to improve and update the guidance based on experiences over the last three years; and

9.3 updates to references, organisations and people contained in the document.

10. The revisions, outlined in paragraph 3 above, permit a considerable increase in the delegation of authority to Holding Bodies to proceed with transactions without the need for referral to the Management Executive. This will allow a greater freedom to Holding Bodies, reduce the flow of work to the centre and allow transactions to progress more quickly. However, the post-transaction monitoring, which The Audit Committees of the Boards of Holding Bodies are responsible for overseeing, will remain in place as a gauge of how successfully these new procedures are operating.

11. Guidance on the Sale of Health Centres and Surgeries is being revised to remove unnecessary obstacles preventing such sales to the occupying GP's in appropriate circumstances. Applications by occupying GP's to purchase Health Centres, to which title continues to be held by the Secretary of State, are now to be considered by the relevant Health Board. As purchaser of GMS and other health services, the Health Board will require to be satisfied that any sale would be consistent with its strategies and would take account of the overall interests of the occupiers of the premises, and those of the managing Trust. A Right of Appeal to the Management Executive will now enable an aggrieved party to have their views reconsidered.

12. It is worth noting that the Chartered Surveyors of Estates Services in The Scottish Office provide a wide range of advice on all aspects of property transactions. In particular, their experience of joint venture arrangements may be of considerable assistance to Holding Bodies. The Chief Estates Officer, Mr Anthony Andrew, can be contacted on telephone no. 0131-244-5998 or through the switchboard on 0131 556 8400.

13. The enclosed revised pages for incorporation into the Property Transaction Handbook have been marked with a vertical line in the margin to identify where changes have been made to the previous guidance.

14. Additional copies of the revised pages may be obtained by telephoning Debbie Marshall or Isabel Farwell on 0131-244-2082. Copies of the complete and revised Property Transaction Handbook will be available from June 1996 at a cost of £10.00 from HMSO, 71 Lothian Road, Edinburgh, EH3 9AZ (Tel. 0131-228-4181).

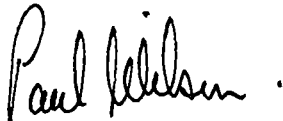
NAO: NHS IN SCOTLAND PROPERTY MANAGEMENT STUDY

15. It has now been confirmed that this study is to proceed (see MEL(1996)20). The study is intended to be an examination of NHS surplus land concentrating on the steps Trusts have taken to identify surplus land and property and, where appropriate, to dispose of it.

16. NAO will mount a preliminary study in the first instance which will be carried out in the June to September period. A subsequent full study is programmed for completion in the summer of 1997.

17. In carrying out the preliminary study NAO plan to look at eight Trusts and will be contacting them in early June. The Trusts immediately involved have been advised by the Directorate of Trusts.

Yours sincerely

A handwritten signature in cursive script that reads "Paul Wilson".

PAUL WILSON
Director of Trusts

**NATIONAL HEALTH SERVICE, SCOTLAND
DIRECTION ON THE EXERCISE OF POWERS IN RELATION TO LAND ACQUISITION
OR DISPOSAL**

The Secretary of State, in exercise of the powers conferred on him by section 2(5) of the National Health Service (Scotland) Act 1978 (in this Direction referred to as "the 1978 Act") hereby gives the following Direction to Health Boards and the State Hospitals Board for Scotland constituted under section 2(1) of the 1978 Act and to the Common Services Agency (hereinafter referred to as "the Agency") constituted under section 10 of the 1978 Act:-

1. In exercising by virtue of article 4(q) of the National Health Service (Functions of Health Boards) (Scotland) Order 1991 (SI 1991/570), article 4(h) and (i) of the State Hospitals Board for Scotland Order 1995 (SI 1995/574) or article 3 of the Common Services Agency (Withdrawal and Amendment of Functions) (Scotland) Order 1991 (SI 1991/900) the functions of the Secretary of State under section 79(1) or (1A) of the 1978 Act

(a) any Health Board, the State Hospitals Board for Scotland or the Agency shall not, except with the consent of the Secretary of State, acquire or dispose of land in any transaction which includes the acceptance of an actual or contingent liability exceeding a value of £100,000;

(b) any Health Board, the State Hospitals Board for Scotland or the Agency shall not, except with the consent of the Secretary of State, in a case where the application of the Crichton Down Rules has been considered, dispose of any land for a non-NHS purpose to another Government Department rather than to the former owner;

(c) any Health Board, the State Hospitals Board for Scotland or the Agency shall not, except with the consent of the Secretary of State,

(i) grant a concessionary lease ie a lease at a rental below market value, where the total value of the concession exceeds £5000, in cases covered by statute the limit is increased to £250,000, or

(ii) make any proposal for the compulsory purchase of any property, or

(iii) acquire a leasehold property or extend the lease of such a property where the annual rental exceeds £250,000 per annum, or where a premium exceeding £1,000,000 is proposed.

Commencement

2. This Direction shall have effect from 3 June 1996.

Revocation

3. The Direction effective from 25 May 1993 is hereby revoked.



DIRECTOR OF TRUSTS