

Internal Audit



Property Transactions 2019/20

August 2020

Internal Audit Assurance assessment:

Objective One	Objective Two	Objective Three	Objective Four	Objective Five
Significant Assurance	Significant Assurance	Significant Assurance	Significant Assurance	Significant Assurance

Timetable

Date closing meeting held: Closing meeting not held, client responded directly to draft report

Date draft report issued: 7 August 2020

Date management comments received: 18 August 2020

Date Final report issued: 18 August 2020

Date presented to Audit and Risk Committee: 24 August 2020

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1. Introduction

1.1 NHS bodies are required to conduct property transactions in accordance with guidance in the NHS Scotland Property Transactions Handbook (the Handbook) maintained by the Scottish Government Health and Social Care Directorate (SGHSCD).

1.2 The Handbook states that an annual internal audit review of property transactions should be carried out at each NHS body and the results reported to the SGHSCD. The review should include all acquisitions and disposals during the previous financial year, whether by purchase, lease or exchange.

1.3 In accordance with section 6.9 of the Handbook, the Board's Internal Auditors are required to categorise the conduct of transactions as follows:

A - The transaction has been properly conducted;

B - There are reservations on how the transaction was conducted;

C - A serious error of judgement has occurred in the handling of the transaction.

Scope

1.4 This audit considered whether NHS Lothian has fully complied with the relevant provisions set out within the NHS Scotland Property Transactions Handbook. This audit covered the following property transactions which have taken place during 2019/20:

Disposals

- Loanhead Clinic

Acquisitions

None

Leases

- Acquisition by lease of Longhouse Surgery

Acknowledgements

1.5 We would like to thank all staff consulted during this review for their assistance and cooperation.

2. Executive Summary

Summary of Findings

2.1 The table below summarises our assessment of the adequacy and effectiveness of the controls in place to meet each of the objectives agreed for this audit. Definitions of the ratings applied to each action are set out in Appendix 2.

No.	Control Objectives	Assurance Level	Number of Findings			
			Critical	High	Medium	Low
1	The relevant mandatory requirements in Section B of the Handbook have been met.	Significant Assurance	-	-	-	-
2	Appropriate and independent legal and property advisers have been appointed.	Significant Assurance	-	-	-	-
3	Legally binding property arrangements have been signed off by the Chief Executive.	Significant Assurance	-	-	-	-
4	Monitoring pro forma have been completed as transactions progress.	Significant Assurance	-	-	-	-
5	All relevant certification has been completed by the Chief Executive at the appropriate stage of each transaction.	Significant Assurance	-	-	-	1
TOTAL			-	-	-	1

Conclusion

2.2 NHS Lothian has concluded two property transactions during the financial year 2019/20. We are satisfied that the Board has complied with the procedures as set out in the Handbook and each transaction can be rated as “A – The transaction has been properly conducted”.

Main findings

2.3 The audit reviewed all transactions which NHS Lothian concluded during 2019/20:

Property	Transaction type	Internal Audit Opinion
Loanhead Clinic	Disposal	A
Longhouse Surgery	Acquisition (Lease)	A

2.4 Overall, the property transactions have been conducted using appropriate professional advice and at prices and terms that are in the best interests of the Board. The Property Transaction Handbook’s guidance on delegated authority has been followed during the signing of all legal documentation.

2.5 We identified one area for improvement during this review:

Low Rating

- While there was sufficient evidence to demonstrate that the Longhouse Surgery transaction had been carried out with appropriate professional advice throughout and had achieved the best terms possible for the board, certification was incomplete.

3. Management Action Plan

Control objective 1: The relevant mandatory requirements in Section B of the Handbook have been met

We identified no significant weaknesses in relation to the above control objective.

NHS Lothian has complied with the mandatory requirements as stated in the Property Transactions Handbook which all holding bodies must adhere to.

Control objective 2: Appropriate and independent legal and property advisers have been appointed

We identified no significant weaknesses in relation to the above control objective.

Appropriate professional advice and recommendations have been received and followed for each transaction.

Control objective 3: Legally binding property arrangements have been signed off by the Chief Executive

We identified no significant weaknesses in relation to the above control objective.

Legal documentation had been signed by NHS Lothian's Director of Finance, which is permitted by the Handbook.

Control objective 4: Monitoring pro forma have been completed as transactions progress

We identified no significant weaknesses in relation to the above control objective.

Monitoring proformas have been completed for each transaction, with the content of each corresponding with transaction timelines and significant dates.

Control objective 5: All relevant certification has been completed by the Chief Executive at the appropriate stage of each transaction	
Finding 5: Property transaction certification has not been completed as required	Low
Associated risk of not achieving the control objective: NHS Lothian completes a property transaction without adhering to all of the conditions of the Handbook	
<p><u>Background</u></p> <p>For each transaction, the Handbook requires certification to be completed by professional advisers and the Chief Executive. Both in-house and external professionals who have given property, legal or valuation advice are required to certify that the transaction has complied with any professional advice given. In addition, the Chief Executive is required to certify the appropriateness of each transaction. Certification should take place at two stages: firstly when an offer is accepted, and secondly at settlement of the transaction.</p> <p><u>Observation and Risk</u></p> <p>While there was sufficient evidence to demonstrate that the two transactions had been carried out with appropriate professional advice throughout and had achieved the best price and terms possible for the Board, certification had not been completed for Longhouse Surgery transaction.</p> <p>The section of the certification requiring signature of the Chief Executive/Director of Finance was incomplete. Also, the Board's legal adviser had signed their section of the certification on 22 June 2020, despite the transaction being concluded on 2 August 2019.</p> <p>Although we can evidence the completeness of the transaction in line with the manual there is a risk that key certification documentation to evidence review and sign off is not retained, which is a requirement within the manual.</p>	
<p><u>Recommendation</u></p> <p>It is advised that property certification is completed to provide appropriate transparency and oversight for the transaction.</p>	
<p><u>Management Response</u></p> <p>The issues around delayed certification completion are noted. Previously, Estates had produced a spreadsheet for the purpose of monitoring the certification process. This will be adhered to for all future transactions.</p> <p><u>Management Action</u></p> <p>Individuals responsible for managing the transaction will ensure that certification is ready to be sent for completion at the required times and will follow up if it is not returned within agreed</p>	

timescales. Any difficulties in the completion of certification will be highlighted to the Lothian Capital Investment Group.

Responsibility:

Manager with responsibility for transaction.

Head of Business Support and Asset Management.

Target date:

30 August 2020

Appendix 1 – Staff Involved and Documents Reviewed

Staff Involved

- Head of Business Support & Asset Management
- Land and Property Manager
- Leases Manager

Documents Reviewed

- NHS Lothian Property and Asset Management Strategy 2018-2023
- NHS Lothian Property and Asset Management Strategy 2019-2024
- Finance & Resources Committee papers and minutes
- Documentation recording communication between the Board and its Professional Advisers.
- Documented recommendations from the Board's Professional Advisers.
- Transaction certification.
- Offer acceptance and supporting legal documentation.

Appendix 2 - Definition of Ratings

Findings and management actions ratings

Finding Ratings	Definition
Critical	A fundamental failure or absence in the design or operating effectiveness of controls, which requires immediate attention
High	A key control failure has been identified which could be either due to a failure in the design or operating effectiveness. There are no compensating controls in place, and management should aim to implement controls within a calendar month of the review.
Medium	A control failure has been identified which could be either due to a failure in the design or operating effectiveness. Other controls in place partially mitigate the risk to the organisation, however management should look to implement controls to fully cover the risk identified.
Low	Minor non-compliance has been identified with the operating effectiveness of a control, however the design of the control is effective

Report ratings and overall assurance provided

Report Ratings	Definition	When Internal Audit will award this level
No assurance	The Board cannot take any assurance from the audit findings. There remains a significant amount of residual risk.	The controls are not adequately designed and / or operating effectively and immediate management action is required as there remains a significant amount of residual risk (for instance one Critical finding or a number of High findings)
Limited assurance	The Board can take some assurance from the systems of control in place to achieve the control objective, but there remains a significant amount of residual risk which requires action to be taken.	<p>This may be used when:</p> <ul style="list-style-type: none"> • There are known material weaknesses in key control areas. • It is known that there will have to be changes that are relevant to the control objective (e.g. due to a change in the law) and the impact has not been assessed and planned for. <p>The controls are deficient in some aspects and require management action (for instance one 'high' finding and a number of other lower rated findings)</p>
Moderate assurance	The Board can take reasonable assurance that controls upon which the organisation relies to achieve the control objective are in the main suitably designed and effectively applied. There remains a moderate amount of residual risk.	<p>In most respects the "purpose" is being achieved. There are some areas where further action is required, and the residual risk is greater than "insignificant".</p> <p>The controls are largely effective and in most respects achieve their purpose with a limited number of findings which require management action (for instance a mix of 'medium' findings and 'low' findings)</p>
Significant assurance	<p>The Board can take reasonable assurance that the system(s) of control achieves or will achieve the control objective.</p> <p>There may be an insignificant amount of residual risk or none at all.</p>	<p>There is little evidence of system failure and the system appears to be robust and sustainable.</p> <p>The controls adequately mitigate the risk, or weaknesses are only minor (for instance a low number of findings which are all rated as 'low' or no findings)</p>