

# Internal Audit



## Property Transactions

September 2018

### Internal Audit Assurance assessment:

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

### Timetable

Date closing meeting held: 27 August 2018

Date draft report issued: 06 September 2018

Date management comments received: 19 September 2018

Date Final report issued: 20 September 2018

Date presented to Audit and Risk Committee: 26 November 2018

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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 all property transactions which have taken place during 2017/18:

#### Disposals

- Bangour Village Hospital Site
- 63 Morningside Drive

#### Acquisitions

- East Craigs Medical Practice

#### Leases

- Lease for former Firrhill Medical Practice
- Leasehold disposal of Craigshill Dental Practice

### Acknowledgements

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

## 2. Executive Summary

### Conclusion

2.1 NHS Lothian has concluded five property transactions during the financial year 2017/18.

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”.

### Summary of Findings

2.2 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 1.

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	-	-	-	1
5	All relevant certification has been completed by the Chief Executive at the appropriate stage of each transaction.	Moderate Assurance	-	-	1	-
<b>TOTAL</b>			-	-	1	1

## Control Objective Ratings

Action Ratings	Definition
<b>Red</b>	Fundamental absence or failure of controls requiring immediate attention (60 points and above)
<b>Amber</b>	Control objective not achieved - controls in place are inadequate or ineffective (21 – 59 points)
<b>Green</b>	Control objective achieved – no major weaknesses in controls but may be scope for improvement (20 points or less)

## Main findings

2.3 The audit reviewed all transactions which NHS Lothian concluded during 2017/18:

Property	Transaction type	Internal Audit Opinion
Bangour Village Hospital Site	Disposal	A
63 Morningside Drive	Disposal	A
East Craigs Medical Practice	Acquisition	A
Former Firrhill Medical Practice	Acquisition (Lease)	A
Craigshill Dental Practicce	Leasehold Disposal	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 However, we identified one important area for improvement during the review:

- While there was sufficient evidence to demonstrate that all five transactions had been carried out with appropriate professional advice throughout and had achieved the best price possible for the Board, certification sign-off for some transactions was not completed until several months after the date of settlement.

Further details of this point, as well as one minor issue, are set out in the Management Action Plan, at page four of this report

### 3. Management Action Plan

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

We identified no significant issues in relation to this control objective.

NHS Lothian has complied with the mandatory requirements as stated in the Property Transactions Handbook which all holding bodies must adhere to, which includes the effective use of professional advisers.

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

We identified no significant issues in relation to this control objective.

Appropriate professional advice and recommendations have been given for each transaction.

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

We identified no significant issues in relation to this control objective.

All legal documentation was signed by NHS Lothian's Chief Executive or Interim Chief Executive. This is permitted by the Handbook, which states that any legal documents which require to be signed at the conclusion of any property transaction may be signed by the Chief Executive or the Director of Finance.

<b>Finding 1</b>	
<p><b>Control objective 4: Monitoring pro forma have been completed as transactions progress.</b></p> <p><b>Associated risk of not achieving the control objective: Key steps within the property transaction process are not completed.</b></p>	<b>Low</b>
<p><u>Background</u></p> <p>The Property Transactions Handbook states in Part A at sections 6.7 – 6.11 that holding bodies should complete a monitoring pro forma for every transaction. The pro forma is designed to be used as an aide-memoire for staff to confirm that key steps within the property transaction process have been completed.</p> <p><u>Observation and Risk</u></p> <p>However, for one transaction sampled as part of this audit, one of the pro forma had not been completed. Specifically, the pro forma for the lease acquisition of Firrhill Medical Practice was blank.</p> <p>Where pro formas are incomplete there is a risk that key steps within the property transaction process are not completed.</p>	
<p><u>Recommendation</u></p> <p>Monitoring pro forma should be fully complete prior to the annual internal audit review.</p>	
<p><u>Management Response:</u></p> <p>It is noted that the monitoring form was missing from one of the files and this was an oversight. The form is normally at the start of the file and may have been removed in error.</p> <p><u>Management Action:</u></p> <p>A more thorough check will be made to ensure that a completed form is included in all files in future transactions.</p>	
<p><u>Responsibility:</u></p> <p>Manager with responsibility for transaction.</p>	<p><u>Target date:</u></p> <p>Immediate</p>

<b>Finding 2</b>	
<p><b>Control Objective 5: All relevant certification has been completed by the Chief Executive at the appropriate stage for each transaction.</b></p> <p><b>Associated risk of not achieving the control objective: Professional advice is not followed or prices and conditions are not the best obtainable.</b></p>	<b>Medium</b>
<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. With the exception of legal advice, where completion occurs only on conclusion of missives and receipt of funds, certification should take place at two stages: firstly when an offer is accepted, and secondly when the transaction proceeds have been received or paid.</p> <p><u>Observation and Risk</u></p> <p>While there was sufficient evidence to demonstrate that all five transactions had been carried out with appropriate professional advice throughout and had achieved the best price possible for the Board, certification for three transactions had not been completed entirely in line with the requirements of the Handbook (i.e. not in a timely manner):</p> <p><b>Firrhill Medical Centre</b></p> <p>The Transaction concluded on 16 November 2017, however the Property Advisers had not signed their section of the certification until 18 June 2018. With the Chief Executive not signing theirs until 7 July 2018.</p> <p><b>East Craigs Medical Practice</b></p> <p>The Transaction concluded on 22 January 2018, however the Property Advisers had not signed their section of the certification until 8 June 2018. With the Chief Executive not signing theirs until 7 July 2018.</p> <p><b>Bangour Village Hospital</b></p> <p>There was no evidence to indicate that the Property Adviser for this transaction had signed their certification at the appointment of preferred bidder stage (August 2017).</p> <p>There is a risk that NHS Lothian completes a property transaction without adhering to all of the conditions of the Handbook. Also, without complying with the proper process, the risk is increased that professional advice is not followed or prices and conditions are not the best obtainable.</p>	



Recommendation

Staff overseeing any future transactions should ensure certification requirements are met on a timely basis. Previously, Estates had produced a spreadsheet for the purpose of monitoring the certification process. It is recommended that this is reintroduced for future transactions.

Management Response:

The issues around delayed certification completion are noted. However the certification monitoring form has proven to be unwieldy and does not enhance the process.

Management Action:

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 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:

Immediate.

## Appendix 1 - Definition of Ratings

### Findings and management actions ratings

Finding Ratings	Definition
<b>Critical</b>	A fundamental failure or absence in the design or operating effectiveness of controls, which requires immediate attention
<b>High</b>	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.
<b>Medium</b>	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.
<b>Low</b>	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
<b>No assurance</b>	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)
<b>Limited assurance</b>	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"> <li>• There are known material weaknesses in key control areas.</li> <li>• 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.</li> </ul> <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>
<b>Moderate assurance</b>	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>
<b>Significant assurance</b>	<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>