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Date: 16 April 2024
Our ref: K: FOI/Ref: 2023-000157
Email: nss.pcf-foi@nhs.scot

Dear [REDACTED]

Freedom of Information Reference: FOI-2023-000157 NHS Land

I refer to your freedom of information request that we received on 04 May 2023. I can advise you that we have now completed the search of our records and can provide you with the following information:

1. What policies are in place regarding the sale of NHS land (developed or undeveloped)?
a. Specifically, what oversight is given to sales?

Under Section 25 of the Freedom of Information Scotland Act 2002, we are exempt from supplying you with the requested information, as this information is already publicly available. Full details of the management of acquisition/sales are governed by the Property Transaction Handbook (PTHB). You can find the PTHB here: [Scottish Government Health Directorates Capital and Facilities Division](#). Reference should also be made to the Scottish Public Finance Manual (SPFM). You can find the SPFM here: [Scottish Public Finance Manual - gov.scot \(www.gov.scot\)](#).

b. Who has input into the decision to sell NHS land?

As per response to 1a

c. What record is kept of sales?

All property sales/purchases are public records registered with the Registers of Scotland in either the Sasines Registers or the Land Register for more recent transactions. In addition, all transactions are dealt with through our Central Legal Office.

d. What procedures are in place with regards to impact assessment of sales of NHS land?

As per response to 1a

2. How much land has been sold or acquired by the NHS in Scotland in the past 5 years?
a. By year and region?

Under Section 17 of the Freedom of Information Scotland Act (FOISA) an organisation does not require to provide information if it does not hold that information. NHS National Services Scotland (NSS) does not hold this information. Each Health Board are responsible for their own record keeping. I would suggest contacting the below addresses as they may be able to provide this level of information:



Headquarters

Gyle Square, 1 South Gyle Crescent, EDINBURGH EH12 9EB

Chairperson Keith Redpath
Chief Executive Mary Morgan

Ayrshire and Arran - foi@aapct.scot.nhs.uk
Borders – foi.enquiries@borders.scot.nhs.uk
Dumfries and Galloway – dg.feedback2@nhs.scot
Fife – fife.foirequestfife@nhs.scot
Forth Valley – fv.freedomofinformation@nhs.scot
Grampian – gram.foi@nhs.scot
Greater Glasgow & Clyde – foi@ggc.scot.nhs.uk
Highland – nhsh.foirequestshighland@nhs.scot
Lanarkshire – foi@lanarkshire.scot.nhs.uk
Lothian – foi@nhslothian.scot.nhs.uk
Orkney – ORK.FOIrequests@nhs.scot
Shetland – shet.foi@nhs.scot
Tayside – tay.informationgovernance@nhs.scot
Western Isles – wi.foi-requests@nhs.scot
NHS24 – foi@nhs24.scot.nhs.uk
NHS National Waiting Times Centre – FOI@gjnh.scot.nhs.uk
Scottish Ambulance Service – sas.foi@nhs.scot
Healthcare improvement Scotland - his.foi@nhs.scot
Mental Welfare Commission for Scotland - mwc.enquiries@nhs.scot
NHS Education for Scotland - foidp@nes.scot.nhs.uk
Public Health Scotland - PHS.FOI@phs.scot
State Hospital Board for Scotland - tsh.info@nhs.scot

b. If this is not possible, who retains the information on property sale and acquisition for NHS property?

Property transactions are public records available from the Registers of Scotland:
<https://www.ros.gov.uk/>

3. Several health boards responded to enquiries about land ownership saying NHS Health Boards are 'effectively holding bodies on behalf of the Scottish Ministers' (or similar), however the Minister said they do not have information on the land held for the NHS in Scotland. Does land ownership, and the associated issues (valuation, sales, etc) lie with the Minister or the NHS?

The land and property are owned by the Scottish Ministers and held/managed by the Health Boards. The Health Boards are responsible for the day-to-day management. (Contact details are shown above in response to 2a).

a. Where is this relationship outlined (ie in policy documents, etc)?

Please see fuller answer below in response to 3b.

b. What policies are in place to communicate between the Department and the NHS on asset management regarding land, such as sales and acquisitions?

The powers of the Ministers to deal with land are set out in s.79 of the **National Health Service (Scotland) Act 1978** ("the 1978 Act") as amended;

- **The Functions of Health Boards (Scotland) Order 1991** provides for the duty of Health Boards to exercise certain named functions on behalf of the Ministers. These functions include the powers under section 79 of the 1978 Act to purchase by agreement any moveable property or land which is required for the purposes of a Health Board or to take any such property on lease and to use for such purposes any property, heritable or moveable, acquired under the Act including any power to manage such property, and to dispose of any land no longer required for the purposes of the Health Board;

- **The National Health Service (Functions of the Common Services Agency)(Scotland) Order 2008** provides for functions of the Common Services Agency (NSS) including to exercise the powers of the Scottish Ministers under section 79(1) of the 1978 Act to take on lease or to purchase by agreement moveable property and land which is required for the functions of the Agency, HIS, Health Boards and Special Health Boards and to use for those functions and manage any heritable or moveable property so acquired and to exercise the powers of the Scottish Ministers under section 79(1A) of the 1978 Act to dispose of land no longer required for the functions of the Agency;
- The ability of Healthcare Improvement Scotland (“HIS”) to exercise certain functions of the Scottish Ministers is contained at **Section 10C of the 1978 Act** and includes the powers of the Scottish Ministers under section 79(1) to take on lease or to purchase moveable property and land so far as required for the purposes of HIS and to use for those purposes and manage any heritable or moveable property so acquired and the powers of the Scottish Ministers under section 79(1A) to dispose of land no longer required for the purposes of HIS;
- Special Health Boards each have their own establishment/functions orders giving them the ability to exercise certain functions of the Scottish Ministers including the powers of the Scottish Ministers under section 79(1) of the 1978 Act to take on lease or to purchase moveable property and land which is required for the purposes of the Board and to use for those purposes and manage any heritable or moveable property so acquired. Different wording may apply to each Special Health Board’s powers and further detail can be provided if required.

I trust you will find the information of assistance and if you require any further information, please do not hesitate to contact me.

If you are unhappy with any aspect of how we have dealt with your request, you can make representations to us asking us to review the handling of your request. Please write to the

Head of Information and Cyber Security
Digital and Security
NHS National Services Scotland
Headquarters
Gyle Square
1 South Gyle Crescent
Edinburgh
EH12 9EB

or at the email address nss.foi@nhs.scot within 40 working days of the date of this correspondence.

If after a review you are still unhappy, you also have the right to apply to the Scottish Information Commissioner, who can be contacted at Kinburn Castle, St Andrews, Fife, KY16 9DS, or via their [online application form](#).

If you have any queries about this letter, please contact me at the above address.

Yours sincerely

