

Planning for Property and Estates Transfers – Guidance Notes

Key Steps for SHAs and PCTs

The key steps are to:

- Identify all property and legal charges that will need to be transferred and recorded in Property Transfer Schemes. (Index of Proprietors names and Index maps search below)
- Identify all other assets, rights and liabilities that will need to be transferred and recorded in Property Transfer Schemes. This will include identifying not only assets held such as equipment and IT but also identifying options, overages, grant agreements, development agreements, warranties and guarantees given. (See Property Transfer scheme below)
- Provide any other information that is essential to the transfer of ownership of estate to facilitate operation and management without causing disruption to services provided. (See requirement to complete Property Enquiries and Division of Single sites below)

Exercises for SHAs and PCTs

The Index of Proprietors' Names

In order to prepare Property Transfer Schemes a schedule of property and other assets and liabilities must be completed (see below). These schedules must contain details of all properties either owned by or charged to a PCT or SHA. To ensure that these schedules are complete PCTs and SHAs are required to apply to the Land Registry to carry out a Search of the Index of Proprietors' Names against their organisation and those of any predecessor bodies.

A search of The Index of Proprietors' Names will show all estate and legal charges registered at the Land Registry in the name of a proprietor. These searches will assist PCTs and SHAs to identify the full extent of their estates and interests.

Searches should be made in the current name of a SHA, PCT or predecessor **and any previous names**.

The cost of making a search of The Index of Proprietors' names is £12 per name searched.

The searches should be full searches i.e. searches for both proprietorship of estate and legal charges.

Where a search reveals title numbers official copies of the registers of these titles should be obtained from the Land Registry.

Where an entry shown on a search result is for estate, a title plan showing the extent of the registered estate should also be obtained from the Land Registry.

Where an entry shown on a search result is for a legal charge, an official copy of the legal charge should, where available, be obtained from the Land Registry.

Applications for official copies of the registers of title and title plans should be made using the Land Registry form OC1. The cost of obtaining an official copy is either £4 per title for an electronic copy applied for remotely or otherwise £8 per title number. The cost of obtaining a title plan is either an additional £4 per title for an electronic copy applied for remotely or otherwise £8. Applications for official copies of a legal charge should be made using the Land Registry form OC2 and the cost of obtaining an official copy of a legal charge should be either £6 for an electronic copy applied for remotely or otherwise £12.

Where titles reveal property or legal charges which are not registered in the correct name there will be a need to transfer or assign to the correct SHA or PCT. An application to the Land Registry to amend the registers of title should be made immediately to ensure that such properties or legal charges are registered in the correct names prior to abolition and transfer.

Please note there is no need to search against the Secretary of State for Health. A search has already been carried out for the Secretary of State for Health and any properties or legal charges registered in his name will remain registered in his name. Details of this search can be provided on request.

This exercise must be carried out by **31 July 2012**.

Index Map Search

Only estate and legal charges actually registered at the Land Registry will be identified by the Search of the Index of Proprietors' Names. This should be the majority of properties both freehold and leasehold (but only leases for a term in excess of 7 years will be registered) and legal charges over properties which are themselves registered at the Land Registry.

Please note, the Land Registry advises that due to the size of the Index of Proprietors' Names search results may contain errors.

As such, if a SHA or a PCT is aware of other property thought to be in its ownership that is not identified by the search of the Index of Proprietors' Names, it should carry out a further Land Registry search by means of an Index Map Search on Form SIM, using the property address or a plan of the property. The cost of this search is £5. The search will reveal whether or not a property is registered at the Land Registry and if it is what the title number is. Where a title number is shown on the search result official copies of the title registers and title plan should be obtained from the Land Registry. The official copies will show who the registered proprietor/owner is. Where a property or legal charge is not registered in the name of a SHA or PCT and should be, immediate action should be taken to register ownership.

This exercise must be carried out by **31 August 2012**.

Property Transfer Scheme Information Requirement

We will shortly issue a Property Transfer Scheme template. There will be one Property Transfer Scheme per PCT and SHA. The Property Transfer Scheme will transfer all properties rights, interest and liabilities of that PCT or SHA to the intended recipients.

In readiness, each SHA and PCT is urgently required to prepare and complete a schedule in the form at Annex A of the guidance notes. This details all properties and property rights, interests and liabilities for appending to the Property Transfer Schemes. Work to compile these schedules must start immediately. PCT and SHA legal adviser's will need to liaise with NHS PS' legal advisers in order to collate and agree the schedules. Where a PCT has properties transferring to NHS Providers, the NHS Providers' legal advisers will also need to be engaged to agree the details of properties rights and liabilities passing to the NHS Provider. Draft schedules must be sent to pctestatedata@dh.gsi.gov.uk for approval by the Department as soon as possible, but by no later than 14 September 2012. Final schedules must be approved by the Department by **15 November 2012** so that they can be incorporated into the Property Transfer Schemes .

Division of Single Sites

In exceptional circumstances approval has been given in principle to certain sites comprising more than one stand alone building being sub divided and parts transferring to different recipients, usually an NHS Provider and NHS PS. In relation to these sites, we now require that the following information is provided to pctestatedata@dh.gsi.gov.uk:

- A Land Registry compliant plan showing the division of the site;
- A draft deed containing all necessary legal rights etc (e.g. access, services) which will benefit or encumber the relevant parts of the site.
- Contact details for the NHS Providers' legal advisers.

This information must be provided no later than **31 July 2012**.

Replies to Enquiries

It is essential that NHS PS receives information in relation to the properties that will transfer to it's ownership. While some of this information is necessary to complete the transfer process itself, the remainder is of a practical nature and is essential for the future operation of the estate. Should further clarification be required regarding the sharing of information please contact pctestatedata@dh.gsi.gov.uk.

Property Enquires are attached at Annex B. PCTs and SHAs are required to complete these in relation to each property that will transfer to NHS PS. If there are properties, where a PCT or SHA think there is a valid reason why replies to Property Enquiries should not be needed they should email pctestatedata@dh.gsi.gov.uk as soon as possible to see if an exemption can be obtained.

Where a property is to transfer to an NHS Provider, the NHS Provider may have additional requirements in relation to enquires and due diligence, and this should be checked directly with the NHS Provider.

Enquires of a PCT/SHA are attached at Annex C. Each SHA and PCT should also provide replies to these enquires. These Enquires will allow the Department to gain a better understanding of the property related rights and liabilities of each SHA and PCT, and determine their final destination. These enquires will be a useful tool to identify matters that should be transferred by the Property Transfer Schemes, which may otherwise be overlooked.

Complete replies to Property and PCT/SHA Enquires should be sent to pctestatedata@dh.gsi.gov.uk by no later than **15 October 2012**.