

Welsh Assembly Government Response to the Audit Committee Report into the Disposal of the Mid Wales Hospital - AC (2) 02-04

The Welsh Assembly Government is grateful for the report. We welcome the findings and offer the following response to the eleven recommendations in the report

Recommendation i

NHS bodies should adhere rigidly to the requirements of WHC (2002) 130 on property disposals

Agreed. Welsh Health Circular (WHC) 2002/130 was issued in December 2002 in response to the original AGW Report on the Disposal of the Mid Wales Hospital but before the Audit Committee had been able to complete its enquiries. This circular reminds all NHS Wales property holding bodies of their responsibilities as guardians of public assets to ensure that all disposals are managed in accordance with the highest standards of probity and accordance with best practice guidance. The circular identifies key strategic guidance to be used by the NHS when disposing of property, reminds the service of the importance of obtaining appropriate professional advice and goes on to detail specific requirements relating to Regularity and Propriety and Value for Money in Disposals. The requirement in WHC (2002) 130 for a business case to be produced for each transaction will enable monitoring which will be performed through Welsh Health Estates enhanced role in disposal procedures.

Recommendation ii

The Assembly's NHS Department should review the efficacy of its guidance to NHS bodies on sustainable development and ensure that it is properly being adhered to

Agreed. The relevance and usefulness of the Assembly guidance, TAN (02) 04 and the document "Sustainable Development in the NHS" is continually under review and any changes or updates will be forwarded to the service in Wales by Welsh Health Estates. Welsh Health Estates also tracks national sustainable development initiatives through its representation on the UK Environmental Policy Group and will issue any new initiatives to the NHS in Wales as they occur.

Recommendation iii

The Assembly's NHS Department should make it explicit in guidance that meetings to negotiate commercial transactions should never be regarded as "informal" and that such meetings should always be minuted

Agreed. WHC (2002) 130 (*Issued in December 2002*) details the requirement of

Estatecode that all decisions and matters relating to disposal must be fully and clearly recorded to provide a comprehensive audit trail which demonstrates that an NHS body has acted properly. The Director NHS Wales Department has also undertaken (in a letter dated 10th February 2004, addressed to Janet Davies AM, Chair of the Audit Committee) to write out to the Service drawing attention to the importance of good record keeping, maintenance of audit trails for decisions, proper logging of decisions and active risk management to underpin decisions. This letter will also draw attention to all the conclusions and recommendations of the Audit Committee's final report and will be copied to the Committee on issue.

Recommendation iv

The Assembly's NHS Department and all NHS bodies should review whether they have made adequate preparations for the commencement of the general right of access under the Freedom of Information Act in January 2005. Where they conclude their preparedness to be inadequate, they should take remedial action as a matter of urgency

Agreed. The Director, NHS Wales, will write to the Assembly's NHS Department and all NHS bodies instructing them to conduct a review. Copies of the letters and the review findings will be forwarded to the Audit Committee.

Recommendation v

NHS bodies that lease property should make use of schedules of condition, or at least visual records of the property, and in the case of the latter, where possible, agree them with their landlords, as a means of managing the risk of excessive claims for dilapidations

Agreed. WHC (2002) 044, introduced new arrangements for managing the disposal of surplus NHS Estates. This change increased the opportunity for access to professional advice through Welsh Health Estates. The use of a schedule of condition is now the normal way of proceeding and is only to be excepted where professional advice recommends accordingly. Compliance with the procedure is ensured through the involvement of Welsh Health Estates in the disposal process.

Recommendation vi

For the avoidance of doubt, NHS bodies handling disposals should retain full records of their communications with prospective purchasers of any changes likely to affect value

Agreed. The issue of WHC (2002) 044 increased accessibility to, and influence of, professional advice within the disposal process. This should ensure that effective communications methods are undertaken. WHC (2002) 130 makes specific reference to maintenance of records and audit trails in paragraph 14. The undertaking by the Director NHS Wales Department as per Recommendation iii will also apply here.

Recommendation vii

NHS bodies should draw the particular attention of private sector agents to the specific requirement for the sealed bids procedures when undertaking informal tenders

Agreed. Processes relating to sealed bids for Trust disposals follows the Trusts' standing orders and procedures. WHC (2002) 130 para 13 specifically refers to the need for NHS bodies to require their agents to follow the same good practice. Disposal reviews are undertaken with each Trust on an annual basis and a part of these reviews includes assuring that procedures have been followed in accordance with expected standards. The Director, NHS Wales, will also write to the Institute of Chartered Surveyors in Wales advising them of the standards expected of their members when engaging in disposal work for NHS bodies in Wales.

Recommendation viii

The Welsh Assembly Government should draw to the attention of all public officials dealing with disposals the need to demonstrate and maintain a "level playing field" in their dealings with prospective purchasers

Agreed. WHC (2002) 130 deals specifically with the requirements of managing disposal processes and the expectations of all public officials involved. The adherence to this circular should ensure that a "level playing field" is maintained in all disposal activity.

Recommendation ix

The Director of NHS Wales should use the appraisal process to ensure that her Accountable Officers have a proper understanding of the respective distinct roles of NHS appointed auditors and the Auditor General for Wales

Agreed. The Director NHS Wales has already undertaken action in this regard by staging a number of seminars for Chief Executives detailing what it means to be an accountable officer in practical (as well as theoretical) terms. As an additional measure, in order to support the appraisal process and to aid in the development of NHS Wales Chief Executives, an "Accountability, Performance and Development Handbook" has been developed.

The handbook incorporates a Statement of Accountability and an underpinning Behaviours and Standards Framework. These documents detail the role, responsibilities and accountabilities of NHS Wales Chairs and Chief Executives and enables self-assessment within a performance development framework.

The Chair's Handbook is at consultation stage and is expected to be completed during May 2004. The Chief Executive Handbook is still in draft format and is expected to be ready for consultation by end of April 2004.

Copies of these documents will be forwarded to the Audit Committee when they are issued.

Recommendation x

The director of NHS Wales should ensure that the standing financial instructions for NHS bodies place emphasis on the requirement to notify the Assembly's NHS Department of novel and contentious payments

Agreed. Detailed advice on losses and special payments is provided in the "Losses and Special Payments Manual of Guidance" issued with WHC (1999) 033 in March 1999. This specifically refers in paras 3.3 and 5.6 that all novel, contentious or repercussive cases must be referred to NHS Wales Department even if they are within a health body's delegated limit. The particular attention of this aspect of standing financial instructions will be highlighted in the letter to be issued by the Director NHS Wales Department as detailed in Recommendation iii.

Recommendation xi

NHS bodies should err on the side of caution in deciding whether to refer or inform the Assembly's NHS Department of unusual transactions

Agreed. The "Losses and Special Payments Manual of Guidance" clearly describes the different type of losses and special payments and the limits delegated to health bodies. The guidance stipulates that all novel, contentious and repercussive cases must be referred to NHS Wales Department. This point will be highlighted in the letter to be issued by the Director NHS Wales Department as detailed in Recommendation iii.