National Audit Office

Report
by the Comptroller
and Auditor General

Department of Health & Social Care

Investigation into NHS Property Services Limited

HC 2222 SESSION 2017–2019 26 JUNE 2019

Key information

What this report is about

This report sets out the facts relating to the progress NHS Property Services Limited (the Service) has made against its key roles and financial objectives. It does not consider the value for money of the Service

NHS Property Services Limited

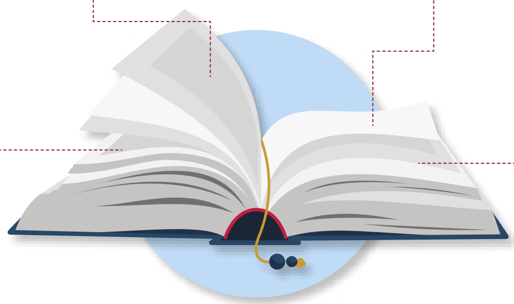
Established in 2011 as part of reforms to the health system to manage, maintain and improve NHS properties and facilities in England previously owned by strategic health authorities and primary care trusts. It began activity in April 2013. Its portfolio has:

2,900 properties

6,950 tenants

An estimated value of **£3.8 billion**

12% of the NHS estate (by floor space)



Acting as landlord (Key role 1)

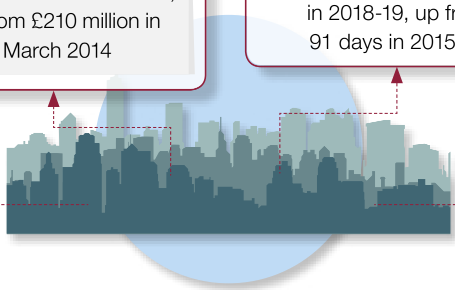
Agreeing and recording the basis on which its customers occupy buildings (rental agreements), billing them, collecting payments and chasing outstanding debts.

70% percentage of tenants that had no signed rental agreements in place by April 2019

Amount overdue
£576 million the amount of outstanding debt owed by tenants in March 2019, up from £210 million in March 2014

214 days the average number of days that tenants took to pay their bills in 2018-19, up from 91 days in 2015-16

WRITTEN OFF
£110 million amount of debt written off by the Service between 2013-14 and 2018-19



Source: National Audit Office

Strategic estates management (Key role 2)

Modernising facilities, buying new facilities, selling facilities the NHS no longer needs and releasing surplus public land for housing, maximising the usage of current facilities, and managing relationships with leasehold landlords.

410
surplus properties disposed of by March 2019 with a capital receipts value of
£347 million

5,931
potential new homes that the Service estimates it has supported through the release of surplus land by March 2019

£447 million
invested to upgrade, maintain and develop new facilities by March 2019

6.9%
vacant space across the Service's portfolio in March 2019, reduced from 12.0% in April 2017

Facilities management services (Key role 3)

This includes compliance with relevant regulations including health and safety, maintenance, electrical, cleaning and catering services. It provides a mixture of in-house and outsourced services, managing both the internal and external environments that surround its properties.

About 50
facilities management contracts currently in place. Reduced from 2,400 separate service arrangements the Service inherited in April 2013

MAINTENANCE BACKLOG
£1 billion
Department of Health & Social Care's estimate of backlog maintenance across the Service's portfolio

8,100
cases of remedial work open in June 2019, reduced from more than 23,400 cases in April 2018

Financial sustainability

The Department of Health & Social Care wanted the Service to deliver cost savings and be financially independent.

£51 million
reduction in direct operating costs between 2013-14 and 2018-19

£1,010 million
the total losses posted by the Service between 2012-13 and 2018-19, including £566 million that resulted from the revaluation of assests

What this investigation is about

1 NHS Property Services Limited (the Service) is a company wholly owned by the Secretary of State for Health and Social Care. The Service was established in December 2011 as part of reforms to the health system to manage, maintain and improve NHS properties in England and facilities previously owned by strategic health authorities and primary care trusts. It began activity in April 2013. A shareholder director represents the Secretary of State as a board member of the Service.

2 The Service aims to manage, maintain and improve NHS properties and facilities, working in partnership with the NHS to create safe, efficient, sustainable and modern healthcare and working environments. In addition, the Department of Health & Social Care (the Department) wanted the Service to be financially independent from departmental allocations and for the Department to be able to sell the company on the open market if desired. The Service has three main roles:

- **Acting as a landlord to manage the estate**
  Agreeing and recording the basis on which its tenants occupy buildings (rental agreements), billing them, collecting payments and chasing outstanding debts.
- **Providing strategic estates management**
  Modernising facilities, buying new facilities, selling facilities the NHS no longer needs and releasing surplus public land for housing, maximising the use of current facilities, and managing relationships with leasehold landlords.
- **Providing support and facilities management services**
  Compliance with relevant regulations including health and safety, maintenance, electrical, cleaning and catering services. It provides a mixture of in-house and outsourced services, managing both the internal and external environments that surround its properties.

Its portfolio consists of 2,900 properties (about 12% of the entire NHS estate by floor space) with an estimated value of £3.8 billion. More than 60% of the properties are health centres, surgeries or clinics. It has about 6,950 tenants. Almost half of the Service's tenants are NHS trusts and NHS foundation trusts (31%) and GPs (18%).

3 In May 2014, we reported on the setting up of the Service and early performance.[1] Following Parliamentary concerns about the Service, including slow progress in achieving its objectives and the level of bonuses being paid to its directors, this investigation builds on our previous work and sets out the facts about the progress the Service has made. It covers:

- its main roles, the types of property and tenants in its portfolio, the issues it inherited and organisational changes (Part One);
- performance of the Service against its main roles and financial objectives, and in particular acting as a landlord to manage the estate (Part Two); and
- the Department's oversight (Part Three).

We conducted our fieldwork between February and April 2019 (Appendix One). This report does not consider the value for money of the Service. Figures used in this report for 2018-19 are unaudited.

1 National Audit Office, *Investigation into NHS Property Services Limited*, Memorandum for the House of Commons Health Committee, May 2014.

Summary

Key findings

Organisational set-up and early progress

1 **When NHS Property Services Limited (the Service) was established it inherited a range of issues including limited information on its properties and tenants.** Our 2014 report noted that among the challenges it faced was compiling a complete list of properties and identifying existing tenants. Of the estimated 7,000 tenants that transferred across when the Service took over managing properties, nearly two-thirds did not have leases in place. Many of the properties were in poor condition, with a significant maintenance backlog, and poor compliance with relevant regulations. The Service also inherited a wide range of different processes, to support billing, customer queries and complaints, from 161 predecessor organisations. It took on 2,400 separate service arrangements for facilities management that varied in price and the quality of work carried out (paragraphs 1.1 and 1.5).

2 **The Service was not set up with the same powers as a commercial landlord.** Tenants were not always fully charged for rent and services before the Service took on ownership. The Department of Health & Social Care (the Department) agreed that to begin with the Service should charge tenants in the same way as the previous owners. In practice, this meant tenants would provide 60% of the income needed to meet the Service's operating costs, with the remaining 40% provided by commissioners. The Service was also not set up with the powers that a commercial landlord can use to enforce occupancy contracts and charges. For example, departmental policy is to decline any Crown versus Crown legal action as it would not be value for money for the public purse. As a result, the Department does not allow the Service access to conventional remedies such as legal action, penalty charges, cessation of services or eviction for NHS bodies. Action against non-NHS tenants, such as GPs, must be approved by the Department on a case-by-case basis (paragraphs 1.5 and 1.6).

3 **The Service's initial management team made little progress in addressing the underlying problems the Service faced.** Most of the Service's initial executive team were recruited through a competitive process from the pool of staff who were at risk of redundancy owing to the 2012 reforms to the health system. The Department replaced the first chief executive in February 2015. At the time, the Department's assessment was that the original chief executive had successfully managed the Service through its period of establishment but did not have the professional skills required to bring about the transformation required to maximise the Service's value. In 2018, the Department reassessed this view noting that the original management team were not property experts and had made little progress in addressing the underlying problems the Service faced. The Service did not begin to address data issues until 2016 and the number of tenants with leases changed little over the first few years (paragraphs 1.7, 2.5, 2.7 and 3.2).

Progress against the Service's key roles

4 **The Service has taken action to improve the quality of data that it holds but issues remain.** In 2016-17, the Service reviewed its entire property portfolio. This aimed to ensure it had the right data on its assets so that it could charge the correct amount of rent. In 2018, it carried out a similar exercise to review all its facilities management services. These reviews provided the Service with data at a point in time, but this was not agreed with all tenants. The absence of leases (see paragraph 5) meant that there has been no enforceable process to ensure that tenants inform the Service of changes to the space they use (paragraph 2.5).

Acting as a landlord

5 **The Service has no effective way of getting tenants to sign formal rental agreements and 70% of them do not have an agreement in place**. It is difficult to run a property management company without formal rental agreements in place. They provide clarity about what is being rented and how much it costs. The Service has sought to get more agreements signed by simplifying the scope of the agreements. However, it has no practical way within its existing powers of requiring tenants to sign them. By April 2019, 70% of tenants had no signed rental agreements in place (paragraphs 1.6, 2.6 and 2.7).

6 **The Service introduced a billing system with industry-standard functionality in 2017, but many bills are still disputed.** For the first few years, billing was poor because of the range of different systems inherited, inaccurate and incomplete data within its systems, and slow billing. The Service introduced new data and billing systems in 2017 to improve the accuracy and timing of its billing. The timeliness of billing has generally improved. For example, 90% of bills were sent out earlier in quarters one, two and four of 2018-19 compared to the same quarters in 2017-18. However, where rental agreements are not in place, rent bills are based on independent market valuation reports and occupancy floor plans, which are more likely to be subject to challenge from tenants (paragraphs 2.8 and 2.9).

7 **Outstanding debt has almost tripled, to £576 million, and tenants are taking much longer to pay their debts.** Outstanding debt increased from £210 million in March 2014 to £576 million in March 2019. Although GPs only occupy 18% of the properties they owe 30% of the current outstanding debt. By April 2019, the Service had only recovered 58.4p in cash for every £1 it billed in 2018-19. The average number of days that tenants take to pay their bills (debtor days) increased from 91 days in 2015-16 to 214 days in 2018-19. The Service introduced property data and billing systems to rectify delayed and inaccurate billing, but this has not helped to reduce the level of outstanding debt. About half of the current debt is subject to review because it has been challenged by tenants for a number of reasons, including inaccurate information or inappropriate apportionment of costs (paragraphs 2.11 to 2.13, and Figure 12).

8 **Between 2014-15 and 2018-19, the Service wrote off £110 million of debt.** For the years when a breakdown of debt data was available, between April 2017 and March 2019, £52.4 million was written off, of which £31.6 million (60%) related to debt that it could not collect from tenants (£23.1 million from NHS tenants and £8.5 million from other tenants, including GPs). The remaining 40% related to corrections to bills for previous years (paragraph 2.13).

9 **The new arbitration process for resolving disputed bills is not working effectively.** In 2017, the Service, NHS England and the Department established an arbitration process for outstanding debt, which is only mandatory for NHS commissioners and NHS trust tenants, but not NHS foundation trusts, GPs and other non-NHS tenants. Despite the scale of outstanding debt, only 19 tenants have been approved by all parties to proceed to arbitration. The Service told us that although the arbitration process is successful once it starts, with all 19 tenants paying overdue debts: it takes too long for the Department and national bodies (NHS England and NHS Improvement) to approve cases for arbitration; not enough cases are approved; and the same tenants continue to re-appear on the non-payment list, suggesting the underlying reasons for non-payment are not being addressed. The Department and national bodies told us that referrals for arbitration were often not agreed because tenants and the Service had not clearly identified the reason for a dispute and other avenues for resolution had not been exhausted (paragraphs 2.14 and 2.15).

Strategic estates and facilities management

10 The Service has met most of its objectives for its strategic estates management. The Service aims to dispose of properties that are under-used or no longer needed. However, the decision on whether a property is surplus to requirements is made by the health commissioners and clinicians who use the property and not by the Service. By March 2019, the Service had disposed of 410 surplus properties with a capital receipts value of £347 million. The Service estimates that the release of surplus land has potentially enabled 5,931 new houses to be built. All receipts from property sales are reinvested in the estate. Between April 2013 and March 2019, the Service invested £447 million in upgrading, maintaining and developing new facilities. However, backlog maintenance was estimated at £1 billion by the Department in 2017. By March 2019, the Service had also reduced vacant space across its portfolio to 6.9% from 12% in April 2017 (paragraphs 2.17 to 2.19, 2.21, and 3.4).

11 The Service has rationalised facilities management services and improved compliance with relevant regulations. It has taken action to improve these services, including reducing the 2,400 separate service arrangements it inherited to about 50 contracts, updating all its facilities management data in 2018 and improving its buildings' compliance with regulations such as health and safety. For example, it has reduced the backlog of remedial tasks from more than 23,400 in April 2018 to 8,100 in June 2019. Although the Service reduced facilities management costs in most years, its spending increased by £39.4 million in 2016-17 mainly because it took on additional properties and services. This meant that these costs increased by £7.7 million between 2013-14 and 2018-19, a real-terms decrease of 4.4% (paragraphs 2.23 and 2.24).

Progress on financial sustainability

12 The Service has not met the Department's goal for it to become financially self-reliant. Between 2013-14 and 2018-19, the Service reduced its direct operating costs by £51 million, a 9.4% reduction, or 12.9% in real terms. Up to 2018-19, the Service had recorded total losses of £1,010 million, including losses of £566 million that resulted from the revaluation of assets. Most of the losses were recorded up to 2015-16, with losses of £142 million in the last three years. The Service also still relies on a flexible loan arrangement from the Department because tenants pay less in the first three quarters of the financial year than in the final quarter and many do not pay the amount invoiced (paragraphs 2.2 to 2.4, and 2.11).

Departmental oversight

13 The Department has yet to undertake a triennial review of the service. The Cabinet Office expects all non-departmental public bodies to undergo a substantive review at least once every three years. The review challenges the need for the public body, and, if it is needed, ensures it is complying with recognised principles of good corporate governance. The Department has not carried out this type of review of the Service but told us that it plans to complete a review by October 2019 (paragraph 3.3).

14 The Service's seven directors received total bonuses of £206,000 in 2018-19. The Service's directors receive a bonus if they achieve their annual objectives. Between 2015-16 and 2018-19, the percentage of the maximum bonuses available that were paid varied from 71% to 89%. Our 2018 report on the Motability scheme noted that in the past three years, independent benchmarking reports have reported that, on average, FTSE 250 firms pay 70% to 75% of the maximum bonus available. The Department considers that its benchmarking shows that the Service's new chief finance officer's total remuneration package (salary, pension and bonus) is broadly equivalent to those received by NHS trust and NHS foundation trust finance directors in London (paragraphs 3.6 to 3.8).

15 The national bodies and the Service do not share a common understanding of the problems the Service faces, or the remedial action required. The Service was not set up with the commercial powers that a landlord can use to enforce occupancy contracts. The Department and the Service told us that without signed rental agreements in place the Service is limited in the progress it can make. The Service also told us that it does not possess enough powers to enforce charges. The Department and national bodies told us that the Service does possess sufficient powers in relation to charges for non-NHS tenants but does not apply them and that they attribute increasing debt to inaccurate bills, lack of supporting information and significant changes to amounts billed without supporting evidence (paragraphs 1.6 and 2.13).

Concluding remarks

16 The Department created the Service in 2011 to manage NHS property. To a large extent the Service has, albeit slowly, succeeded in improving the professional support required, collecting data, streamlining contracts and identifying market rental rates. However, more than eight years later, it still does not have the powers it needs to work effectively, as the Department originally intended, and the accuracy of bills is still disputed. In our view, too many NHS organisations and GPs seem to regard paying for their premises as optional, with almost £700 million either written off or still unpaid. The framework for charging for NHS property is not working effectively and the Department urgently needs to address the fundamental causes of this unsatisfactory situation.

Recommendations

17 Diagnosing and addressing the challenges facing the Service is a collective enterprise, which needs to involve all parties to be effective.

The Department, in collaboration with national bodies and the Service should:

a develop a plan to ensure that the Service and all tenants of the Service's premises will agree tenancy details and amounts by 31 March 2020; and

b put in place an efficient dispute resolution process whereby all disputes are settled within 90 days of invoicing and agree a plan to clear outstanding disputes including a service-level agreement for responding to queries from tenants in a reasonable time so that there is agreement on the nature and value of the disputed amount before entering the arbitration process.

The Department and national bodies should:

c examine ways to encourage occupiers and local health economies to take greater ownership of paying for the Service's estate.

The Department should:

d provide stronger challenge to the Service's process for setting directors' bonuses, so that bonuses are paid for achieving genuinely stretching and important targets; and

e complete the strategic review of the Service in time to inform decision-making in the expected 2019 Spending Review.

The Service should:

f build on its existing quality metrics, with input from stakeholders, so that its performance can be monitored, including the accuracy of billing;

g continue to reduce the time it takes to issue bills; and

h review its capacity to deal with queries in an effective and timely manner.