Real Property Management Policy

Implementation Standard for Real Property Lease, Licence and Occupancy Agreements – Expenditure and Revenue

1. Purpose
This implementation standard identifies the minimum requirements and individual responsibilities for:
- Commercial Expenditure Leasing Arrangements
- Residential Headlease (Expenditure) Agreements
- Revenue Leasing Agreements

2. Scope
- This implementation standard applies to all Queensland Health employees (permanent, temporary and casual) and all organisations and individuals acting as its agents (including partners, contractors, consultants and volunteers) involved in the establishment of the following:
  - commercial expenditure
  - revenue agreements
  - residential headleases.

3. Supporting documents
Authorising Policy and Standard/s:
Forms and Templates:
- Property Services Work Request Form
- Queensland Government Accommodation Office (QGAO) Request for Additional Office Accommodation Form
- Department of Health Revenue Lease Application Form

All real property leases shall be approved as per the Department of Health Corporate Real Property Delegations Instrument of Authorisation, and shall comply with relevant state and commonwealth legislation.
4. **Related documents**

**Legislation**
- *Financial Accountability Act 2009* (Qld)
- *Financial and Performance Management Standard 2009* (Qld)
- *Hospital and Health Boards Act 2011* (Qld)
- Hospital and Health Boards Regulation 2012 (Qld)
- *Land Act 1994* (Qld)
- *Land Title Act 1994* (Qld)
- *Property Law Act 1974* (Qld)
- *Public Service Act 2008* (Qld)
- *Retail Shop Leases Act 1994* (Qld)
- *Residential Tenancies and Rooming Accommodation Act 2008* (Qld)
- Residential Tenancies and Rooming Accommodation Regulation (Qld) 2009
- *Sustainable Planning Act 2009* (Qld)
- *Telecommunications Act 1994* (Cwlth)

**Department of Health**
- Financial Delegations
- Corporate Real Property Delegations Instrument of Authorisation v11 2013
- Employee Housing Design Standards and Guidelines QH-GDL-053-1:2008
- Employee Housing Real Property Policy and Procedures QH-GDL-929:2009
- Hospital and Health Service Financial Delegations

**Department of Housing and Public Works**
- Ecologically Sustainable Office Fit-out Guidelines 2000
- Government Employee Housing Management Framework: Policy for the Management of Queensland Employee Housing 2011
5. Requirements

Compliance with the requirements in this standard will ensure that all Residential Headleases, Expenditure Agreements and Revenue Agreements:

- are developed and approved through a consistent and transparent process, maintaining appropriate legal documentation
- comply with relevant legislation and whole-of-government and Department of Health policy (including the Queensland Health Corporate Real Property Delegations Instrument of Authorisation Version 11 (February 2013), the Residential Tenancies and Rooming Accommodation Act 2008 (Qld), the Property Law Act 1974 (Qld), the Land Title Act 1994 (Qld) and other legislation relevant to an individual agreement)
- provide value for money and ensure management of risk for the Department of Health.

Expenditure Lease Agreement (where Queensland Health is the tenant)

5.1 Initiating a request (Executive an Expenditure Agreement)

5.1.1 The requesting officer in a hospital and health service (HHS) or Department of Health division shall request the execution of a Commercial Expenditure Leasing Agreement. The request shall include a completed Queensland Government Accommodation Office (QGAO) Request for Additional Office Accommodation Form.

5.1.2 The Health Service Chief Executive (HSCE) or divisional head shall endorse the request.

5.1.3 Once endorsed, the request shall be forwarded to the QGAO.

5.2 Processing the request

5.2.1 On receipt of the request QGAO shall:

- acknowledge receipt of the request
- ensure all submitted forms are complete and, if required, request additional information from the HHS or division in order to progress the work request.

5.2.2 QGAO shall liaise with the requesting officer to identify the preferred accommodation option and negotiate terms.

5.2.3 QGAO is the Cabinet appointed Government agency for the procurement of accommodation for all Government departments. Responsibility for negotiating and finalising commercial expenditure leasing arrangements for all State agencies is with QGAO. QH shall not make contact with any agent...
Department of Health: Implementation Standard for Real Property Lease, Licence and Occupancy Agreements – Expenditure and Revenue

or owner other than through QGAO, so as not to compromise any lease negotiations.

5.2.4 QGAO shall finalise negotiations and provide a summary of lease terms and a Statement of Financial Commitment to the respective Health Service Chief Executive or divisional head for endorsement and signature. QGAO will then forward this to PS for endorsement.

5.3 Final approval and implementation of the agreement

5.3.1 On receipt of the signed Statement of Financial Commitment, PS shall prepare a brief for approval to enter into the Commercial Expenditure Leasing Agreement.

5.3.2 Approval shall be sought from the appropriate delegated officer in accordance with the Department of Health Corporate Real Property Delegations.

5.3.3 Once approval is obtained, PS will notify QGAO so they can obtain Department of Housing and Public Works Ministerial approval and initiate the implementation of the Commercial Expenditure Leasing Agreement for Office Accommodation.

5.3.4 Once final approval is given QGAO shall notify the HHS or division of lease commencement.

5.3.5 Compliance with the agreed terms of the Commercial Expenditure Leasing Agreement shall be the responsibility of the HHS or division.

5.3.6 Where a HHS requires an expenditure lease for ‘non-office’ purposes (i.e. carpark, helicopter landing site, clinical purposes) a work request form is to be forwarded to PS providing details of the requirement.

5.3.7 PS shall consider the request and provide advice to the HHS on the recommended course to progress the dealing. PS shall liaise with a legal service provider or other relevant agencies as required.

5.3.8 The HHS or division shall prepare the appropriate lease agreement.

5.3.9 PS shall obtain written approval from the HSCE or divisional head to the Terms of Agreement and then draft a brief seeking approval and signature from the appropriate delegated officer in accordance with the Corporate Real Property Delegations.

5.3.10 If approval is not granted, the HHS shall be notified as a matter of urgency.

Residential Headlease (Expenditure) Agreement with the Private Sector

5.4 Initiating a request

5.4.1 The requesting officer in a hospital and health service (HHS) or Department of Health division shall complete the following documentation in preparation for entering into a residential lease:
5.4.2 The HHS shall confirm compliance with Section 2.6 of the Department of Health Employee Housing Standards and Guidelines (minimum level of amenity for existing, purchased and leased properties). If non-compliant ensure a risk assessment is undertaken and evidence is provided detailing mitigation strategies or management of non-compliance.

5.5 Processing a request

5.5.1 Once the residential headlease document is prepared, the HHS officer shall forward the printed document (in duplicate) to the agent/owner for signing.

5.5.2 Upon receipt of the signed documents from the landlord, the HHS shall mail the lease documents, Headlease Brief, Request Form and the Risk Assessment, where required, as per point 5.4.2 above) to the Manager, PS, Asset and Property Services Branch (APSB), Health Infrastructure Branch (HIB) for approval and signing. The HHS shall forward an electronic copy of the documents to APS-Program@health.qld.gov.au.

5.6 Final approval and implementation of the Agreement

5.6.1 PS shall review and progress the Brief for Approval and signature from the appropriate delegated officer in accordance with the Department of Health Corporate Real Property Delegations.

5.6.2 Once the brief is approved and the Headlease is fully executed, PS shall forward the original documents to the HHS for distribution to the agent and retention on HHS file.

5.6.3 If not approved the requesting HHS or division shall be notified as a matter of urgency.

5.6.4 The HHS or division shall be responsible for compliance with the agreed terms of the Residential Headlease.

5.6.5 The requesting HHS or division is required to enter into a Residential Tenancy Agreement with the Queensland Health employee occupying the residential premises (in accordance with the Residential Tenancies and Rooming Accommodation Regulation (Qld) 2009).

5.6.6 A Residential Tenancy Agreement Template (compliant with the Regulation) is available from HIB_Enquiries@health.qld.gov.au.
Revenue Leasing Agreement (where Queensland Health is the Landlord)

5.7 Initiating a request

5.7.1 The requesting officer in the HHS shall request the execution of a Revenue Leasing Agreement. The request shall include:
- a completed PS Work Request Form
- a completed Department of Health Revenue Application Form.

5.7.2 The HSCE shall endorse the request. Once endorsed, the request shall be forwarded to the Manager, PS, Asset and Property Services Branch (APSB), Health Infrastructure Branch (HIB).

5.7.3 The terms and conditions of the Revenue Agreement are negotiated by the requesting HHS.

5.8 Processing the request

5.8.1 On receipt of the request PS shall:
- acknowledge receipt, via reply email, of the work request
- ensure all submitted forms are complete and, if required, request additional information from the HHS in order to progress the work request
- liaise with legal service providers and the HHS to prepare the Revenue Lease Agreement.

5.8.2 The Revenue Lease Agreement shall be sent back to the requesting officer to negotiate terms and reach agreement between the parties.

5.8.3 PS can provide standard Revenue Lease documentation for some arrangements that shall form the basis for negotiations between parties and are available from HIB_Enquiries@health.qld.gov.au.

5.9 Final approval and implementation of the Agreement

5.9.1 Once the terms of the agreement have been agreed between the parties, the legal service providers shall draft the Revenue Lease documentation and provide a summary of the terms and conditions. The legal service providers will provide a certification letter that the Agreement can be signed by the Lessor.

5.9.2 On receipt of the Lessee signed documentation, PS shall prepare a brief for approval to enter into and execute the Revenue Leasing Agreement.

5.9.3 Approval for the execution of the original Revenue Lease Agreement is sought from the appropriate officer in accordance with the Department of Health Corporate Real Property Delegations.

5.9.4 Compliance with the agreed terms of the Revenue Lease Agreement shall be the responsibility of the requesting HHS.
6. **Review**

This standard is due for review on: 18 May 2014

**Date of Last Review:** New

**Supersedes:**
- Implementation Standard for Expenditure Leasing QH-IMP-339-1:2011

7. **Business Area Contact**

Senior Director, Asset and Property Services,
Health Infrastructure Branch, System Support Services Division

8. **Responsibilities**

<table>
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<tr>
<th>Position</th>
<th>Responsibility</th>
<th>Audit criteria</th>
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<tbody>
<tr>
<td>Director-General, Queensland Health</td>
<td>• Provide final approval, where applicable, to execute an Expenditure Leasing Agreement or Revenue Leasing Agreement.</td>
<td>• Accountable for ensuring the final approval is given as per the requirements of the Department of Health Corporate Real Property Delegations.</td>
</tr>
</tbody>
</table>
| Deputy Director-General, System Support Services | • Approve the Standard.  
• Provide endorsement or approval to execute an Expenditure Leasing Agreement or Revenue Leasing Agreement. | • Accountable for ensuring the final approval is given as per the requirements of the Corporate Real Property Delegations. |
| Chief Health Infrastructure Officer, Health Infrastructure Branch, System Support Services | • Custodian for the Standard.  
• Ensure review of the Standard.  
• Approve/Endorse Expenditure Leasing Agreement or Revenue Leasing Agreement. | • Accountable for the review of the Standard.  
• Accountable for ensuring the final approval is given as per the requirements of the Corporate Real Property Delegations. |
| Senior Director, Asset and Property Services, Health Infrastructure Branch, System Support Services | • Approve/Endorse Expenditure Leasing Agreement or Revenue Leasing Agreement.  
• Manage review of the Standard. | • Accountable for ensuring the final approval is given as per the requirements of the Corporate |
<table>
<thead>
<tr>
<th>Role</th>
<th>Responsibilities</th>
<th>Accountability</th>
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</table>
| Health Service Chief Executive (HSCE)    | • Identify need for additional accommodation supported by budgeted funding for establishment and recurrent leasing costs (Expenditure Lease Agreements).  
• Identify and assess proposed tenants as required (Revenue Leasing Agreements).  
• Approve all appropriate forms for submission to PS, HIB, SSS.  
• Manage all leasing documentation. | • Accountable for the identification of the need for accommodation  
• Accountable for submission of Work Request From and relevant Lease Application Form  
• Accountable for the identification of the proposed tenant.  
• Accountable for the delivery of approvals in a timely manner.  
• Accountable for appropriate record keeping. |
| Manager, Property Services, Asset and Property Services, Health Infrastructure Branch, System Support Services | • Review all work requests and delegate as required. | • Accountable for ensuring review and delegation occurs in a timely manner  
• Requirements of Standard are met. |
| Staff, Property Services, Asset and Property Services, Health Infrastructure Branch, System Support Services | • Review and assess all submitted documents.  
• Prepare, or engage legal service providers for preparing leasing agreements.  
• Develop documents seeking corporate and financial approval for the progression of a request.  
• Update, maintain and archive documents. | • Accountable for clear, concise and timely communication with HHSs and divisions.  
• Accountable for the timely review and assessment of documents.  
• Accountable for the provision of accurate information in the development of documents for approval or execution. |
9. Definitions (and acronyms) of terms used in the policy and supporting documents

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition / Explanation / Details</th>
<th>Source</th>
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</thead>
<tbody>
<tr>
<td>Agreement</td>
<td>A negotiated and legally enforceable understanding between two or more legally competent parties.</td>
<td>Government Solicitors Office</td>
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<tr>
<td>DHPKW</td>
<td>Department of Housing and Public Works</td>
<td></td>
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<tr>
<td>Expenditure</td>
<td>Money spent</td>
<td>Australian Taxation Office</td>
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<tr>
<td>Expenditure Leasing Agreements</td>
<td>All legal documentation for the occupation and/or use by Queensland Health of real property owned by a third party. Includes: Residential Expenditure Leases Residential Expenditure Licences For example: Privately owned office accommodation, leased through QGAO.</td>
<td>Health Infrastructure Branch, System Support Services, Department of Health</td>
</tr>
<tr>
<td>Landlord</td>
<td>The person or entity who grants the lease, usually, the owner of the Real Property.</td>
<td>Department of Housing and Public Works</td>
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<tr>
<td>Lease</td>
<td>A lease is an interest in land or buildings that gives exclusive possession and is given by a land owner (lessor) to another person (lessee) for a fixed duration. For example: Red Cross Australia Bloodbank.</td>
<td>Government Land Policies, Property Management Committee</td>
</tr>
<tr>
<td>Licence</td>
<td>An agreement to allow the use or occupancy of land or buildings where there is clearly no intention to pass exclusive possession or an interest in the land. For example: A physiotherapist using a single room one day a month or as required.</td>
<td>Government Land Policies, Property Management Committee</td>
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<tr>
<td>PS</td>
<td>Property Services, Asset and Property Services, Health Infrastructure Branch, System Support Services</td>
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<td>Market Value</td>
<td>The estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arms length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion.</td>
<td>Government Land Policies, Property Management Committee</td>
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<tr>
<td>Memorandum of Understanding (MOU)</td>
<td>An MOU is a document that records the common intent of two or more parties where the parties do not wish to assume legally binding obligations. An MOU is usually less complex and less detailed than a contract, but provides a framework and set of principles to guide the parties in undertaking a project or working arrangement. State Government Departments are required to enter into MOUs as the State can not lease or licence from the State.</td>
<td>Government Solicitors Office</td>
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<tr>
<td>Occupancy Agreement</td>
<td>An agreement used in relation to buildings defined by the Department of Housing and Public Works as government owned stock. For example: QGAO commercial office accommodation.</td>
<td>Health Infrastructure Branch, System Support Services, Department of Health</td>
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<td>QGAO</td>
<td>Queensland Government Accommodation Office, Department of Housing and Public Works</td>
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<tr>
<td>Real Property</td>
<td>Real Property is defined as land and all that is affixed</td>
<td>Government Land Policies, Property Management Committee</td>
</tr>
<tr>
<td><strong>Revenue Leasing Agreements</strong></td>
<td>All legal documentation for the occupation and/or use by third parties of real property owned by Queensland Health. Includes: ● Revenue Leases ● Revenue Licences For example: University teaching and learning centre.</td>
<td>Health Infrastructure Branch, System Support Services, Department of Health</td>
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<td><strong>Statement of Financial Commitment</strong></td>
<td>Provides a commitment by Queensland Health, acting as a tenant, to cover all recurrent and non-recurrent costs associated with the leasing of real property.</td>
<td>Queensland Government Accommodation Office</td>
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<tr>
<td><strong>Tenant</strong></td>
<td>The person to whom the right to occupy under an agreement is given.</td>
<td>Employee Housing Real Property Policy and Procedures, Department of Health</td>
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<tr>
<td><strong>Third Party</strong></td>
<td>An entity external to Queensland Health.</td>
<td>Implementation Standard for Third Party Infrastructure Partnership Projects, Department of Health</td>
</tr>
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<td><strong>Agreement</strong></td>
<td>A negotiated and legally enforceable understanding between two or more legally competent parties.</td>
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</table>
10. Approval and Implementation

Policy Custodian:
Chief Health Infrastructure Officer, Health Infrastructure Branch
System Support Services Division

Responsible Executive Team Member:
Deputy Director-General, System Support Services Division

Approving Officer:
Deputy Director-General, System Support Services Division

Approval date: 18 May 2012
Effective from: 18 May 2012

Version Control

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<th>Version</th>
<th>Date</th>
<th>Prepared by</th>
<th>Comments</th>
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<tr>
<td>1.0</td>
<td>11/02/2014</td>
<td>Helen Sotiris</td>
<td>minor update to include new reporting structure</td>
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