



**HEALTH SERVICE
EXECUTIVE
NATIONAL FINANCIAL
REGULATION
DUE DILIGENCE
INVESTIGATIONS
NFR-23**

NFR-23 Due Diligence Investigations

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23.1. Introduction

23.1.1. This regulation forms part of the National Financial Regulations (NFR) of the Health Service Executive (HSE). This NFR is part of the overall system of Corporate Governance and Internal Control within the organisation.

23.2. Purpose

23.2.1. Due diligence refers to the gathering and verification of information prior to an organisation's committing to a business decision relating to a proposed incorporation, amalgamation, merger etc. The purpose of a due diligence investigation is to identify, benefits and risks associated with that business decision.

23.3. Scope

23.3.1. It applies to all instances where the HSE is required either by governmental or departmental policy to incorporate another organisation into the HSE.

23.4. Assistance / Further Information

23.4.1. Additional information regarding this regulation should be addressed to the Assistant Chief Financial Officer, Finance Specialists.

23.4.2. It is intended that this regulation will be regularly updated to reflect and incorporate new and additional legislative and other directives. Notifications will be issued on HSE National Intranet - National Financial Regulations and via email communications.

23.5. Effective Date

23.5.1. This regulation is effective immediately and supersedes all prior directives issued relating to Due Diligence Investigations, relating to proposed incorporation of public bodies/organisations into the HSE.

23.5.2. This regulation applies to all HSE employees.

23.6. Definition & Interpretations

23.6.1. *Due Diligence* is the process to look closely at the operations of an entity prior to incorporation, amalgamation, merger etc. Paragraph 23.7 outlines this process in performing due diligence investigations in the HSE.

23.7. Conduct of Due Diligence Investigations

23.7.1. *Due diligence, in relation to the incorporation into the HSE of other public bodies/organisations, will be conducted in accordance with the following provisions:*

- (i) A due diligence investigation must be performed prior to the incorporation of any other organisation (regardless of its current legal status or the proposed future legal arrangements and status) into the HSE. The final due diligence report should, normally, be completed before the formal and final incorporation decision is approved.
- (ii) The National Director who will, ultimately, assume responsibility for an organisation once it is incorporated into the HSE, will commission the due diligence investigation. If there is any doubt, as to whom that responsible National Director is, the designation of a National Director will be a matter for the Director General (DG).
- (iii) A credible due diligence process, consistent with the possible levels of risk exposure, will be undertaken. It will, therefore, be necessary to systematically estimate and weigh predetermined risk exposures.
- (iv) The due diligence investigation process should be cost effective, conducted efficiently and focus resources on the greatest risks. A prudent and conservative approach, with greater emphasis on the proper, rather than speedy, conclusion of the investigative process will be adopted. The investigation must, therefore, be appropriate, comprehensive and reasonable having regard to the scale of the operations of the organisation to be incorporated and possible risk exposure to the HSE. A due diligence investigation will, to varying degrees, include the dimensions outlined in Appendix 1. 'What if' scenarios will be included where necessary, to arrive at better and worse case situations.
- (v) A forecast or summary report of the expected or most likely outcome of the decision to incorporate the organisation into the HSE should be provided which will take into consideration all relevant data that has been acquired about the particular organisation and its operating environment. The HSE, having conducted the due diligence investigation, should be better informed as to associated benefits and risks/disadvantages.
- (vi) The due diligence report should make a recommendation:
 - Advising against the proposal ("red flags" supporting this recommendation will be listed); or
 - Postponing a decision until additional information is provided; or
 - Advising that the proposal should be approved.
- (vii) The due diligence recommendation should be considered by the relevant National Director and included as an element of the final report to the DG and Leadership Team on the proposed incorporation of another organisation into the HSE. This report should, also, include the action plan necessary to implement the proposal and particular emphasis should be placed on the actions needed to address any adverse findings identified in the due diligence investigation.
- (viii) Those conducting the due diligence investigation will take all reasonable steps to secure the commitment of the organisation which is the subject of the investigation to:
 - financial transparency and full disclosure;
 - production of documentation;
 - proper completion of any due diligence questionnaires.

Those conducting the due diligence investigation will have the necessary expertise and skills and they should have credible investigative backgrounds. A systematic approach by a team with credibility will greatly assist in securing

necessary commitments and co-operation of the organisation being proposed for incorporation.

- (ix) Because of the multi-dimensional nature of a due diligence investigation, a panel of suitable persons, representative of all the national divisions, will be available for the purposes of supporting the due diligence process. A team, led by the designated National Director will be formed from the panel, with other internal or external assistance as deemed appropriate, to undertake the specific due diligence investigations commissioned by the National Director.
- (x) Each due diligence investigation should be reviewed by the HSE in the light of the actual experience/events following the incorporation of any other organisation into the HSE.

23.8. Duties and Responsibilities

23.8.1. The DG is responsible for assigning responsibility, to a member of the Leadership Team, the ownership of the body/organisation once incorporated into the HSE.

23.8.2. This National Director has the responsibility

- To lead a cross directorate team to perform the due diligence investigation prior to the incorporation of the organisation into the HSE.
- To ensure the investigation team possesses the necessary expertise and skills to perform the assigned tasks.
- To produce a final report to the DG and the Leadership team for approval.

23.9. Reporting of Irregularities

23.9.1. Any member of staff who considers that there may have been an instance of irregularity must inform their line manager immediately. The manager to whom the matter has been reported must furnish a written record to relevant Divisional Assistant National Director or equivalent salary grade, relevant Assistant National Director of Finance and the National Director Internal Audit for further action.

23.10. Appendix

A due diligence investigation will, to varying degrees, include, at minimum, the following dimensions:

Finance and Audit	Evaluation of historic financial statements to include ascertaining the reasons behind any qualified audit findings.
	Review audited accounts and carry out reconciliation of payments that had been made by the HSE to the organisation in the past.
	Review internal audit reports and other consultancy reports produced about the organisation
	Ensure that all statutory deadlines are met e.g. filing of annual accounts, PAYE returns etc
	Obtain copies of any existing financial regulations/policies
	Review policies in respect of travel/subsistence, entertainment expenses and foreign travel
	Review of asset registers, to include recent disposals and physical verification of assets
	Sample testing of financial cash-flows and balances
	Identification of overvalued, undervalued and unrecorded assets and liabilities
	Computation of prospective future operating results and cash flows
	Identification of unusual payment patterns or financial arrangements
	Quantification of corruption vulnerability;
	Appropriateness of bad debt provision;
	Inventory assessment
	Review all bank accounts and related banking arrangements (including credit cards)
	Payroll and accounts payable processing reviews
	Potential contingent liabilities
	Tax compliance and liabilities
	Review of audit management letters
	Tax Liabilities
	Pension liabilities
	Insurance
	Review minutes of board meeting
Legal	List the contingent liabilities such as threatened or pending litigation
	Guarantees entered into with third-parties
	Review key contracts such as suppliers, consultancy etc.
	Obtain details of location of important legal documents such as articles of association, title deeds, leases, loan arrangements, guarantees etc
Commercial	Establish the general economic and operating conditions in the particular organisation and the other important factors relating to future viability of its operations
Human Resources	Adequacy of provision for: <ul style="list-style-type: none"> • current employee benefits (including severance pay), • employment contracts, • incentive contracts • possible future claims (e.g. parity with HSE employees, labour disputes);
	Confirmation that staffing level is proportionate to the recorded remuneration for services provided
	Consider the impact of loss of key staff during the transfer process
Property	Building and Property Inspection and Assessment to include: <ul style="list-style-type: none"> • Need for repair or replacement and life expectancy. • Environmental Assessment • Suitability for Use • Leases • Physical security of properties
Information and communications technology (ICT)	Review asset register for ICT
	Consider software issues
	Review policy on ICT security e.g. encryption and other security processes

In relation to public bodies, specific attention will be paid to:

- Compliance with public sector policies (including pay);
- Adherence to employment ceilings;
- Relationship with parent Department;
- Undertakings (if any) given by parent Department;
- Governance framework;
- Accounting Officer statements on compliance and performance;
- Contingencies:
- Audit reports and management letters of the Comptroller and Auditor General and/or other External Auditors