

EXPLANATORY MEMORANDUM TO
THE NHS BODIES (TRANSFER OF TRUST PROPERTY) ORDER 2012
2012 No. 1512

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The purpose of the Order is to transfer property held on trust (in these cases charitable property) between NHS bodies, in particular from the bodies listed as relevant old Trusts in column 1 of the Schedule to the bodies listed as relevant new Trusts in column 2 of the Schedule.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative context**
 - 4.1 The instrument has been made by the Secretary of State under section 213 of the National Health Service Act 2006. That section allows the Secretary of State for Health to transfer trust property between relevant NHS bodies (which are defined in the section) in the circumstances laid down in that section. One of these circumstances is where there is a change or proposed change in the functions of an NHS body (which includes a Primary Care Trust or an NHS Trust).
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England.
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy background**
 - *What is being done and why*
 - 7.1 Primary Care trusts are primarily established to commission health services, but also provide some healthcare services such as community health services. Under a policy known as the “transforming community services” programme, Primary Care Trusts are divesting these provider services to improve services and ensure, for example, that they separate the commissioning of services from their provision. Under the programme, some of these community services have transferred to other NHS bodies. There has therefore been a change in the functions of a number of Primary Care Trusts which are no longer providing these community health services.

- **Consolidation**

7.2 Trust property (in these cases charitable property) has been donated for the benefit of services that were being provided by the relevant Primary Care Trusts, but which have now transferred to other bodies. In some cases, this trust property is held by the Primary Care Trust itself. In others it is held (for reasons of efficiency for example), by other NHS bodies, such as Foundation Trusts, under what is known as an “umbrella charity” but remains for the benefit of the community services that were run by the Primary Care Trust concerned. However, two of the transfers are from NHS Foundation Trusts to NHS Trusts where the transfer is as a result of a change in the function of the NHS Trust. Under both these circumstances, it is considered more appropriate for the new bodies to now hold and administer the trust property related to the services that have transferred and for which the funds have been donated to benefit, i.e. the bodies now providing the services (or their umbrella charity) will hold the charitable funds that have been donated for those services. The nature and purpose of the funds transferred will not be affected. This Order transfers the funds from the body currently holding the funds to the body that will then be the corporate trustees for them. The bodies involved and the reason for the transfers are set out in the table below.

Transferring body	Receiving body	Reason for Transfer
Barnet Primary Care Trust	Central London Community Healthcare National Health Service Trust	The funds relate to the transfer of provider function from Barnet PCT to the new Central London Community Healthcare NHS Trust under the Transforming Community Services (TCS) programme.
Central and Eastern Cheshire Primary Care Trust	East Cheshire National Health Service Trust	The charitable funds relate entirely to services that have transferred to East Cheshire National Health Service Trust. The transfer is therefore under Section 213
East Lancashire Teaching Primary Care Trust	East Lancashire Hospitals National Health Service Trust	The provider function of East Lancashire Teaching Primary Care Trust has been transferred to two NHS bodies under the Transforming Community Services Programme. The transfer is there under Section 213.
East Lancashire Teaching Primary Care Trust	Lancashire Care NHS Foundation Trust	The provider function of East Lancashire Teaching Primary Care Trust has been transferred to two NHS bodies under the Transforming Community Services Programme. The transfer is there under Section 213.
Hampshire Primary Care Trust	Frimley Park Hospital NHS Foundation Trust	The transfer relates to services transferred from Hampshire PCT to other local bodies under the TCS programme. The transfer is therefore under Section 213
Hampshire Primary Care Trust	Southern Health NHS Foundation Trust	The transfer relates to services transferred from Hampshire PCT to other local bodies under the TCS programme. The transfer is therefore under Section 213
Hampshire Primary Care Trust	Sussex Partnership NHS Foundation Trust	The transfer relates to services transferred from Hampshire PCT to other local bodies under the TCS programme. The transfer is therefore

		under Section 213
Norfolk and Suffolk NHS Foundation Trust	West Suffolk Hospital National Health Service Trust	The funds relate to the transfer of x-ray services from Norfolk Primary Care Trust to West Suffolk Hospital NHS Trust. The PCT's charitable funds are held under the umbrella charity of Norfolk and Suffolk NHS Foundation Trust. As this relates to a transfer of services involving a PCT, the transfer must be under Section 213.
North West London Hospitals National Health Service Trust	Central London Community Healthcare National Health Service Trust	The funds relate to Westminster Primary Care Trust whose provider services have transferred under the Transforming Community Services Programme. Their charitable funds are held under the umbrella charity of North West London Hospitals National Health Service Trust. As this relates to a transfer of services involving a PCT, the transfer must be under Section 213.
Salford Royal NHS Foundation Trust	Pennine Acute National Health Service Trust	This transfer relates to maternity services that Salford Royal NHS Foundation Trust no longer provides. Part of the services are now provided by Pennine Acute National Health Service Trust and the funds to be transferred relate to those services. As the transfer of functions relates to a NHS Trust the transfer is undertaken under Section 213
Solihull Primary Care Trust	University Hospitals Coventry and Warwickshire National Health Service Trust	The provider functions of Solihull Primary Care Trust have been transferred to a number of local bodies under the Transforming Community Services Programme. These funds relate to functions transferred to the University Hospitals Coventry and Warwickshire National Health Service Trust. The transfer is therefore under Section 213.
Walsall Teaching Primary Care Trust	Black Country Partnership NHS Foundation Trust	The provider function of Walsall Teaching Primary Care Trust has been transferred to Black Country Partnership NHS Foundation Trust under the Transforming Community Services Programme. The transfer is therefore under Section 213.

8. Consultation outcome

- 8.1 No formal written, public consultation exercise regarding the transfer of the trust property was undertaken as it is not required under legislation. All involved parties have agreed to the transfer. However before any actual services were transferred, the NHS bodies would have had to ensure they complied with their consultation duties, such as any duties to consult the public, stakeholders, staff or local authority committees as appropriate.

9. Guidance

9.1 None

10. Impact

10.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 None. The accounts of NHS funds held on trust are submitted to the Charity Commission.

13. Contact

Chris Steele at the Department of Health, Tel 0113 254 5939 or e-mail Chris.Steele@dh.gsi.gov.uk, can answer any queries regarding the instrument.