EXPLANATORY MEMORANDUM TO

THE NHS BODIES (TRANSFER OF TRUST PROPERTY) ORDER 2011

2011 No. 2748

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).

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

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 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.

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. All of the transfers on this order relate to Primary Care Trusts, whose provider services have

transferred from Primary Care Trusts to other NHS bodies. 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
Barnsley Hospital NHS Foundation Trust	**South West Yorkshire Partnership NHS Foundation Trust**	Transfer of services from Barnsley PCT to SW Yorkshire Partnership NHS FT under the Transforming Community Services programme (TCS). The PCTs funds are managed by the FT under their umbrella charity. The transfer is therefore under section 213
Bradford and Airedale PCT	**Bradford Teaching Hospitals NHS Foundation Trust**	Transfer of services from Bradford and Airedale PCT to the FT under TCS. Bradford and Airedale PCT has split its provider services between Bradford Teaching Hospitals NHS Foundation Trust and Bradford Care Trust.
Bradford and Airedale PCT	**Bradford District Care Trust**	Transfer of services from Bradford and Airedale PCT to the Bradford Care Trust under TCS. Bradford and Airedale PCT has split its provider services between Bradford Teaching Hospitals NHS Trust and Bradford Care Trust.
Camden Primary Care Trust	**Central And North West London Mental Health NHS Foundation Trust**	Camden PCT has transferred its provider arm to Central and North West London Mental Health NHS Foundation Trust.
Devon Primary Care Trust	**South Devon Healthcare NHS Foundation Trust**	Part of the provider arm of Devon Primary Care Trust has transferred to South Devon Healthcare NHS Foundation Trust under TCS. Funds relate to the transferred functions.
Dudley Primary Care Trust	**Black Country Partnership NHS Foundation Trust**	Transfer of services from Dudley PCT to Black Country Partnership NHS Foundation Trust under TCS programme.
Dudley Primary Care Trust	**The Dudley Group NHS Foundation Trust**	Transfer of services from Dudley PCT to The Dudley Group NHS Foundation Trust under TCS programme.
Ealing Primary Care Trust	**Central London Community Healthcare National Health Service Trust**	Funds relate to Hammersmith and Fulham PCT, whose provider services have transferred to Central London Community Healthcare NHS Trust. The funds are currently held under the umbrella of Ealing Primary Care Trust
Ealing Primary Care Trust	**Ealing Hospital NHS Trust**	Funds relate to Ealing PCT whose provider services have transferred to Ealing Hospital NHS Trust.

Ealing Primary Care Trust	**Hounslow and Richmond Community Healthcare National Health Service Trust**	Funds relate to Hounslow PCT held under the umbrella of Ealing PCT. Services transferred from Hounslow PCT to Hounslow and Richmond Community Healthcare NHS Trust on 1 April 2011 and the related charitable funds now need to be transferred to the new provider.
Herefordshire Primary Care Trust	**Wye Valley National Health Service Trust**	Funds relate to the provider services which have transferred to the receiving body.
Herefordshire Primary Care Trust	**2gether NHS Foundation Trust**	Funds relate to the provider services which have transferred to the receiving body.
Kensington and Chelsea Primary Care Trust	**Central London Community Healthcare National Health Service Trust**	Funds relate to the provider services of Kensington and Chelsea PCT which have transferred to the receiving body.
Kingston Primary Care Trust	**Hounslow and Richmond Community Healthcare National Health Service Trust**	Funds relate to Richmond and Twickenham PCT held under the umbrella of Kingston PCT. Services transferred from R&T PCT to Hounslow and Richmond Community Healthcare NHS Trust on 1 April 2011 and the related charitable funds now need to be transferred to the new provider.
Leicestershire County and Rutland Primary Care Trust	**Leicester Partnership NHS Trust**	The PCT has transferred provider services to the Trust as a result of TCS
Mid Essex Hospital Services National Health Service Trust	**South Essex Partnership University NHS Foundation Trust**	Funds to transfer are those representing the provider arm of West Essex PCT, which had transferred to Mid Essex Hospital Services NHS Trust on 20/07/11. The provider services the funds have been raised to support have transferred to South Essex Partnership NHS Foundation Trust
Northern Lincolnshire and Goole Hospitals NHS Foundation Trust	**Rotherham Doncaster and South Humber NHS Foundation Trust**	Transfer relates to transfer of some services relating to North Lincolnshire PCT to Rotherham Doncaster and South Humber NHS Foundation Trust. The funds are currently held under the umbrella of Northern Lincolnshire and Goole Hospitals NHS
North Yorkshire and York Primary Care Trust	**Harrogate & District NHS Foundation Trust**	York PCT has split its provider function between six NHS Trusts and Foundation Trusts. All of these have a separate schedule. The first three of the transfers took place in July
North Yorkshire and York Primary Care Trust	**Tees, Esk and Wear Valleys NHS Foundation Trust**	York has split its provider function between six NHS Trusts and Foundation Trusts. All of these have a separate schedule. The first three of the transfers took place in July
Portsmouth City Primary Care Trust	**Solent National Health Service Trust**	The transferred funds relate to Portsmouth PCT, whose provider services have transferred to Solent NHS Trust.

Salford Primary Care Trust	**Salford Royal NHS Foundation Trust**	The transferred funds relate to Salford Primary Care Trust whose provider function has transferred to Salford Royal NHS Foundation Trust on 1 April 2011
Solihull Primary Care Trust	**Heart Of England NHS Foundation Trust**	Funds relate to Solihull Primary Care Trust (previously known as Solihull Care Trust) provider arm, which has transferred to Heart of England NHS FT under the TCS programme.
South Essex Partnership University NHS Foundation Trust	**Cambridgeshire and Peterborough NHS Foundation Trust**	Funds relate to Luton PCT whose provider function has transferred to the receiving Trust.
Tees, Esk and Wear Valleys NHS Foundation Trust	**South Tees Hospitals NHS Foundation Trust**	Funds relate to Redcar and Cleveland PCT and Middlesbrough PCT. These were held under the umbrella of Tees, Esk and Wear Valleys NHS Foundation Trust. As the related services have transferred from the PCTs to receiving body, the funds are following the services.
The Hillingdon Hospitals NHS Foundation Trust	**Central And North West London NHS Foundation Trust**	Funds relate to the provider arm of Hillingdon PCT, whose services have transferred to Central and North West London NHS Foundation Trust under TCS. Currently, the funds are held under the umbrella of The Hillingdon Hospitals NHS FT.
University Hospital Southampton NHS Foundation Trust signed	**Solent National Health Service Trust**	Funds relate to Southampton City PCT, held under the umbrella of Southampton University Hospitals, whose provider services transferred to Solent NHS Trust under the TCS programme.
Warwickshire Primary Care Trust	**South Warwickshire NHS Foundation Trust**	Funds are all those held by the PCT, whose provider arm has transferred to South Warwickshire NHS Foundation Trust
Western Sussex Hospitals NHS Trust signed 21 September 2011	**Sussex Community NHS Trust** signed 28 September 2011	Funds relate to the provider arm of West Sussex PCT, which merged with South Downs Health NHS Trust to form Sussex Community Trust, and have been held under the umbrella of Western Sussex Hospitals NHS Trust.

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 the actual services were transferred from the Primary Care trusts concerned, 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

9. Guidance

9.1 None

10. Impact

10.1 An 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

13.1 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.