**EXPLANATORY MEMORANDUM TO**

# THE NUFFIELD ORTHOPAEDIC CENTRE NATIONAL HEALTH SERVICE TRUST (TRANSFER OF TRUST PROPERTY) ORDER 2011

**2011 No. 2419**

**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 (charitable property) from the Nuffield Orthopaedic Centre National Health Service Trust to the Trustees for the Oxford Radcliffe Hospitals National Health Service Trust.

## 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 NHS 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 Nuffield Orthopaedic Centre National Health Service Trust (NOC) is merging with Oxford Radcliffe National Health Service Trust on 1 November 2011. This transfer allows the non-corporate Trustees of the recipient body (which were appointed by the Secretary of State) to hold and manage the funds held on trust (i.e. charitable funds) raised to support the work of the services which will transfer to Oxford Radcliffe Hospitals NHS Trust. This is all the charitable property currently held by NOC

7.2 Where possible, when NHS bodies “merge”, related funds held on trust, i.e. charitable funds, held by a dissolving body are included on the general transfer order which transfers general property and liabilities from the dissolving body to the new body, and which is not a statutory instrument. However, in this case, the receiving body has separate non-corporate trustees appointed by the Secretary of State to hold its trust property. There is no power to transfer the trust property to trustees appointed for the NHS trust (as opposed to the NHS trust itself) under this general transfer of property Order. The SI will come into effect on 1 November so that the transfer can take place simultaneously with the dissolution of NOC. The nature and purpose of the funds transferred will not be affected.

## 8. Consultation outcome

8.1 No formal written, public consultation exercise was undertaken for the transfer of funds held on trust as it is not required under legislation. All involved parties have agreed to the transfer.

8.2 The merger of Nuffield Orthopaedic Hospitals National Health Service Trust with Oxford Radcliffe Hospitals National Health Service Trust has been supported by consultation with staff interests and local Links. The merger proposals have also been fully discussed with and supported by Local Authority partners, the Overview and Scrutiny Committee, and Members of Parliament.

8.3 The Trust has also consulted with staff affected by the proposed transfer to comply with the TUPE requirements.

## 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

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.