

**EXPLANATORY MEMORANDUM TO**  
**THE NHS BODIES (TRANSFER OF TRUST PROPERTY) ORDER 2014**

**2014 No. 230**

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 other than an NHS Foundation Trust (but which includes an 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 Under a policy known as the “transforming community services” programme, Primary Care Trusts divested their provider services to improve services and ensure, for example, that they separate the commissioning of services from their provision. Under the program, some of these community services have transferred to other NHS bodies. There has therefore been a change in the functions of a number of National Health Service Trusts, who are now providing these community health services.
  - 7.2 Trust property (in these cases charitable property) has been donated for the benefit of community services that have now transferred to National Health Service Trusts. In some cases, this trust property is held (for reasons of efficiency for example), by NHS Foundation Trusts, under what is known as an “umbrella charity” but remains for the benefit of the services to which they relate. It is considered more appropriate for the new bodies stated below to now hold and

administer the trust property related to the services that have transferred. The nature and purpose of the funds transferred will not be affected by this transfer. This Order transfers the funds from the body currently holding the funds as corporate trustees to the body that will then become the corporate trustees for them. The bodies involved and the reason for the transfers are set out in the table below.

<b>Transferring NHS body</b>	<b>Receiving NHS body</b>	<b>Reason for Transfer</b>
Cambridgeshire and Peterborough NHS Foundation Trust	Cambridgeshire Community Services National Health Service Trust	The funds relate to the services which transferred to Cambridgeshire Community Services NHS Trust upon its establishment. These services were previously provided by Cambridgeshire Primary Care Trust, and the related funds were held under the umbrella charity of Cambridgeshire and Peterborough NHS Foundation Trust rather than by the PCT itself. Cambridgeshire Community Services NHS Trust now wishes to manage the funds themselves. The transfer is therefore due to the change in functions of the NHS trust which has taken on new functions and wants to manage the funds relating to those functions itself.
Wrightington, Wigan and Leigh NHS Foundation Trust	5 Boroughs Partnership NHS Foundation Trust	The transferring funds relate to a third NHS body, Bridgewater Community Healthcare National Health Service Trust. This trust was formed under the Transforming Community Services programme - it took on community services from PCTs. The charitable funds relating to these services were held on the PCTs' behalf by the umbrella charities of the two Foundation Trusts involved in this transfer. The transfer will allow for the funds related to the functions which transferred to Bridgewater Community Healthcare NHS Trust, which are currently managed by the Wrightington, Wigan and Leigh NHS Foundation Trust, to be transferred and managed by the charity that now manages other Bridgewater Community Healthcare NHS trust's charitable funds i.e. by the 5 Boroughs Partnership NHS Foundation Trust. The total funds related to Bridgewater Community Healthcare NHS Trust are currently too small to be managed in a separate fund by the trust itself. The transfer is therefore because of the change in the functions of the

		Bridgewater Community Healthcare NHS trust which has taken on new functions and wants the charitable funds related to those functions to be administered on its behalf by another body.
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## **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](mailto:Chris.Steele@dh.gsi.gov.uk), can answer any queries regarding the instrument.