



Department
of Health

NHS Funds Held on Trust

Guidance on the acceptance, management and transfer of charitable funds for NHS bodies

March 2017

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Guidance on the acceptance, management and transfer of charitable funds for NHS bodies

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Executive Summary

The purpose of this guidance is to give an introduction to the general principles determining NHS charities' trustees' financial responsibilities, outlining how funds held on trust are handled and managed – including the procedures available for transferring such funds between NHS charity trustees and other bodies.

Previous practice was to use Statutory Instruments to transfer charitable funds between NHS bodies, but there was no legal reason to do so because NHS Trustees' grant-making powers are sufficient. NHS Charities operating under a corporate trustee model are now expected to use their own grant-making powers in the normal course of transferring charitable funds. DH does not expect to use a Statutory Instrument to transfer charitable funds as a matter of course, but will consider a request from NHS Trustees to do so if there are exceptional circumstances.

1. Introduction – NHS charities

Types of NHS Charity

1. There are around 250 NHS charities which are structured as charitable trusts with their charitable purposes deriving from the National Health Service Act 2006 (“the NHS Act”)ⁱ. Currently there are two types of NHS charity, those with:
 - [Corporate Trustees](#)
 - [Separate bodies of individual Trustees appointed by the SofS](#)
2. Funds donated to the NHS must be managed separately from a NHS body’s own monies (i.e. exchequer monies). In this guidance, the term “funds” is used to cover any donated cash or property held on trust, including land and buildings, equipment, investments etc. donated to the NHS body for charitable purposes.

Corporate Trustees

3. The NHS bodies listed below can act as the trustee of charitable funds in a corporate capacity:
 - National Health Service Trusts (NHS trusts);
 - NHS foundation trusts (FTs);
 - Clinical commissioning groups (CCGs);
 - Special Health Authorities; and
 - NHS England.
4. The responsibility for the management and use of these funds held on trust generally lies with the Board of a NHS body acting as corporate trustee. This model applies to almost all NHS charities, the vast majority of which have the Board of an NHS trust or FT as corporate trustee. There are no NHS charities which have a Special Health Authority or NHS England as a corporate trustee.

Individual Trustees Appointed by SofS

5. For historical reasons, some of the larger NHS charities were established with separate bodies of individual trustees appointed by the SofS, independent of the board of the NHS body. These are:
 - Trustees appointed to hold property on trust for the purposes of an NHS trust or for any purpose relating to the health service;
 - Trustees appointed to hold property on trust for an FT or for any purpose relating to the health service; and

- Special Trustees for a university hospital or teaching hospital.
6. There remain a very small number of these types of NHS charities in place, which are now almost phased out (see below). NHS Improvementⁱⁱ, acting on behalf of SofS under delegated powers, makes and terminates these trustee appointments.
 7. There also exist powers for SofS to appoint individual trustees for CCGs and Special Health Authorities, but these have never been used.

Moving to Independence - Former NHS Charities

8. Once it is fully in force, the [NHS \(Charitable Trusts Etc\) Act 2016](#)ⁱⁱⁱ (“the NHS Charities Act”) will remove all the powers of the SofS to appoint individual trustees for NHS charities. It is anticipated that the relevant provisions of the NHS Charities Act will be brought into force on 1st April 2018. In the meantime, NHS charities with such individually appointed trustees are taking steps to move to fully independent status or to become a corporate NHS charity – and almost all are in the process of doing, or have now done, so.
9. After the NHS Charities Act comes fully into force, the only possible governance arrangement for NHS charities that have not already become fully independent will be the corporate trustee model.
10. NHS Charities currently operating under the corporate trustee model may seek to move to independent charity status at any time, and the [Guidance](#) issued by the Association of NHS Charities and DH provides detailed information on the implications of converting to independent status, outlining the process that will apply^{iv}.
11. At the time of publication, 17 former NHS Charities had made the move to independent status, placing them outside the scope of NHS legislation. Please note that this guidance is not applicable for such Charities.

2. Duties of Trustees – Accepting and Managing Funds

Duties

12. NHS Trustees are responsible for ensuring their duties are discharged correctly, taking advice as necessary. They have an overall duty to the beneficiaries to administer the trust effectively. Individual duties include to:
 - ensure they act in accordance with the conditions under which a donation is made and charity law;
 - maintain a proper distinction between their responsibilities as trustees and any exchequer functions which they might also have as the Board of a NHS body; and
 - provide the proper infrastructure to ensure charitable funds are managed efficiently and effectively. Where administrative services are shared between exchequer functions and trustee funds, the cost of providing those services should be shared on a fair basis.
13. Full guidance on the responsibilities of trustees can be found on the [Charity Commission](#) website^v. Please note that this document is not designed as a substitute for the Charity Commission's guidance.

Donations

14. All NHS Trustees have the power to receive and hold charitable property for the purposes of the NHS body or for any purpose relating to the NHS in England and Wales.
15. Many charitable donations and bequests are held in connection with the discharge of specific functions within the NHS. Therefore, whilst the NHS services continue to be provided, it is consistent that NHS Trustees manage the funds they receive that support them.
16. A charitable donation should not normally be refused by NHS Trustees. However, they must always consider whether there might be reasons why a specific donation might be inappropriate and, if so, the donation should be refused. The following list of circumstances where this might apply is not exhaustive, but might include where:
 - the donor's requirements cannot legally be met by the NHS Trustees;
 - there are conditions attached to the donation which are not acceptable or cannot be met - for example, where the donation is specified to be for the

provision of particular equipment or facilities, the running of which would result in unacceptable recurrent expense for the NHS body;

- acceptance of donations would, or would appear to, place NHS Trustees or DH under any inappropriate obligation - particular care should be taken when large sums are involved;
- it might be wrong to accept a donation on ethical grounds – for example, a gift from a particular source, or with particular trusts, which might be incompatible with the ethos of the health service, or be likely to alienate beneficiaries or other potential donors. The general principles to be applied are similar to those relating to the exclusion of particular forms of investment from consideration on ethical grounds (see [Charities and investment matters: a guide for trustees \(CC14\)](#)^{vi} on the www.gov.uk website; or
- the acceptance of the donation could result in unacceptable controversy or adverse publicity.

17. In some cases, it may be possible to discuss with the potential donor a change to the terms of a proposed gift in order to avoid having to refuse it. NHS Trustees may find the guidance [The Acceptance and Refusal of Donations](#)^{vii} published by the [Institute of Fundraising](#)^{viii} helpful. The Charity Commission also has its own section on fundraising on the www.gov.uk website.^{ix}

Restricted and Endowment Funds

18. As far as possible, NHS Trustees should encourage donations to be made for health services purposes generally, as this gives the NHS charity greatest flexibility in the application of the funds.
19. However, for any number of reasons, donors may wish to put restrictions on the use of their donations. For the purposes of this guidance, the relevant restrictions which may be created are:
- restricted funds - funds that can only be applied for specified purposes - e.g. for the use of a particular hospital or ward. This may apply to the use of income and/or capital and will be imposed by the donor at the point of donation, and
 - permanent endowment funds - where the assets donated (sometimes known as “capital in perpetuity”) must be invested rather than spent. Sometimes the donor may apply a condition to their donation that will permit the trustee(s) to use some of the capital if it is needed. This is known as an expendable endowment, and the trustee(s) are intended to only expend income, but have the right to expend capital if required. Endowment funds will always be restricted.

20. Restricted funds must be accounted for as such, in accordance with the provisions of the Charities Statement of Recommended Practice ([SORP](#))^x.
21. Funds that are not permanently endowed and/or restricted as to use are referred to as “unrestricted”.
22. However, donors may have a specific view about how the resources that they are providing should be used or applied. They might be amenable to expressing a non-binding preference, rather than creating a restricted fund. Such preferences can be recorded by creating a “designated” (“earmarked”) fund and should be accounted for as part of the unrestricted funds. This term has an administrative purpose only; it does not legally restrict the NHS Trustees’ discretion to apply the funds and they can choose to remove the designation from the funds.
23. Detailed guidance on investment powers for charitable trusts generally can be found on the Charity Commission’s webpages via [Charities and investment matters: a guide for trustees \(CC14\)](#).

The Acceptance of Non-Charitable Donations

24. The overwhelming majority of donations offered to NHS Trustees will be for charitable purposes.
25. Occasionally donations may be offered under terms that are not regarded as charitable in law - for example, a donation for the benefit of a single named patient. Management of funds for the benefit of individual patients, or small groups of patients, does not generally form part of the functions of the NHS. Such management is, as appropriate, for the patient themselves, relatives or friends or, if necessary, professional financial advisers.
26. The [Charity Commission](#) can advise NHS Trustees on whether proposed or actual donations are for charitable purposes.

Management of Funds, Accounting and Reporting

27. Where a NHS body acting as corporate trustee has charitable income of less than £5,000 per year it does not need to register a charity with the Charity Commission, although it must still report its charitable funds as a separate item (in compliance with the Charities SORP and the regulations) and manage these funds in accordance with their charitable intentions^{xi}. Where annual income exceeds this level on a repeat basis the registration of the charity with the Charity Commission is required.
28. Registration of a charity, however, generates reporting and governance obligations that can be time consuming and costly for the smallest charities.

NHS trustees of small charitable funds could therefore consider the following two options to mitigate these costs:

- Contract a larger NHS charity to provide a financial management service: This is a purely administrative arrangement – the funds themselves and decision making powers remain fully within the control of the existing trustees.
- Transfer funds to a larger NHS charity: Under this scenario, the new host NHS Trustee body is the legal holder of the assets and is responsible for all decisions on how they are applied, including any subsequent transfer. This is sometimes referred to as an ‘umbrella’ arrangement. Funds will also be reported in the accounts of that charity, albeit as a separate component. In practice, the NHS Trustees of the umbrella charity would normally invite a member of the NHS body whose funds have been transferred to join its relevant sub-committee to assist in determining spending priorities for those funds. Any subsequent donation of funds to the NHS body would thereafter be directed to the larger NHS charity.

29. Audited accounts for NHS charitable funds are submitted to the Charity Commission and are published on their website. Guidance on the accounts process and timetable can be found on the Charity Commission’s webpages under [Charity money, tax and accounts](#)^{xii}. You may also find the [example trustee annual reports and accounts](#)^{xiii} produced by the Healthcare Financial Management Association useful.
30. While accounts are not submitted to DH, we do, however, require some basic accounts information from NHS charities for consolidation to comply with HM Treasury reporting requirements. In most cases this is submitted through the NHS trust or FT accounts schedules and complies with their submission timetable. Because of the differences in the legal timetable for submitting accounts, year-end information submitted to DH for its group accounts consolidation is likely to be unaudited.

3. Transfer of Funds Held on Trust

Circumstances Where Funds Held on Trust can be Transferred

31. The circumstances where an NHS charity might transfer funds held on trust include where:
 - the whole of the charitable funds are transferred to a new, independent charity;
 - there has been a change in services/restructuring and funds are transferred to another NHS body; or
 - there is a transfer for administrative reasons to a larger NHS charity under an umbrella arrangement (see [Paragraph 28](#)).
32. NHS Trustees are required under charity law to ensure that funds held on trust are properly applied in furtherance of their charity's objects.
33. Where the purposes of those funds become unworkable - e.g. as the result of restructuring or when service changes locally alter the responsibilities of individual bodies, then NHS Trustees should take the appropriate steps to ensure that the trusts are changed, which will depend on the circumstances, particularly the nature and size of the trusts concerned.
34. Funds held on trust should generally be transferred under the NHS Trustees' own powers as a grant. This can be to another NHS body or a body outside the NHS - e.g. to a University for research purposes. The funds must be granted under the terms of their donation (if relevant) and for a specific, costed purpose.
35. It should be noted that the objects of the transferring charity must be wide enough to permit the proposed grant to be made. This will be the case in the overwhelming majority of cases. If, however, the objects of the transferring charity include the formula "wholly or mainly for ... (the services of the particular NHS body)", the objects may be too narrow to allow a grant to another body to be made. In such circumstances the objects of the charity will need to be amended (widened) before the grant can be made. This requirement is covered in section H.2.4 of the [Charity Commission's NHS Charities Guidance](#).
36. A Statutory Instrument can also be used to transfer NHS charitable funds between NHS bodies, but not to make transfer to a non-NHS body. As this method is no more secure than a grant, takes around six months to complete and can impose significant costs, DH will only consider using a Statutory Instrument in exceptional circumstances. NHS Trustees should [consult DH](#) if they think a Statutory Instrument is necessary to make a transfer - see [Annex A](#).

Considerations for Decisions on Transferring Trust Property

37. NHS Trustees should follow the principle of funds following the provision of services, unless there is a very good reason not to do so.
38. If the effect of a transfer would mean that a NHS charity will no longer have any funds – e.g. because they have all been granted away, the NHS Trustees should contact the Charity Commission to:
 - notify them that they are dissolving each of the charities of which they are trustee as a consequence of the grant;
 - confirm which NHS body is receiving the funds as trustee; and
 - confirm whether that body already has a charity or charities established to receive the funds. If there is only a partial transfer (e.g. all the charitable funds related to a particular service) but that will result in a whole charity (within a group) dissolving, the transferor trustee must notify the Charity Commission that the charity is dissolved (and the destination of the funds) so that the former can be removed from the Register of Charities (and possibly recorded in the Register of Mergers).
39. If the recipient NHS body (acquiring trusteeship of the transferred funds) does not already have a charity established to receive the funds, it should establish one, and (if the annual income will exceed £5,000) it should submit an application to register the charity. The recipient body does not need to contact the Charity Commission other than to submit an application (where applicable).
40. Any new allocation of restricted funds will be determined by the donor's specified conditions - see above at [Paragraph 19](#).
41. NHS Trustees can only transfer funds that they 'own'.
 - In the case of a NHS charity operating under the 'umbrella' arrangements - see above at [Paragraph 28](#), the transfer is in the name of the host 'umbrella' body, because only they have the legal right to agree to the transfer of the funds. The legal transfer will be from the NHS Trustee of the umbrella body to the recipient. In practice, however, all should be consulted by the transferor as well as the intended new recipient to confirm agreement to the transfers.
 - Where there is a contract for financial management services - see above at [Paragraph 28](#) from another NHS Trustee, the transferring body should, with the agreement of the current provider of those services, and the body to which the funds are being transferred, ensure that these arrangements are terminated, amended or carried forward.

42. NHS Trustees should always seek their own legal advice in relation to grants and transfers if they have any doubt as to correct procedure or other issues of diligence and fiduciary responsibility.

Other Relevant Powers Where Funds Held on Trust can be Transferred

43. NHS Trustees may need to be aware of the following powers under which funds held on trust might also be transferred.

Dissolutions of NHS Trusts and Transfers under Paragraphs 28 & 29 of Schedule 4 to the NHS Act

44. Under these powers the SofS may dissolve a NHS trust and transfer its assets and liabilities to another NHS body or himself. In the past, these powers have commonly been used where two NHS trusts or a NHS trust and a FT have merged or one has acquired another. Such transactions require Ministerial approval and the making of Establishment, Dissolution and Transfer Orders – Schedules of the latter should specify property held on trust.

Mergers between a FT and another FT or NHS Trust under Section 56 of the NHS Act

45. Where there is merger of two FTs or a FT and a NHS trust, Monitor (operating under the umbrella of NHS Improvement) will make an order transferring property and liabilities to the new FT under section 57 of the NHS Act.

Acquisitions by FTs of another FT or NHS trust under Sections 56A

46. Where a FT acquires another FT or a NHS trust under section 56A of the NHS Act, the property and liabilities of the acquired FT or NHS trust are transferred to the acquiring FT on the acquisition under section 56AA.

FTs separating into two or more new FTs under Section 56B of the NHS Act.

47. Where Monitor (operating under the umbrella of NHS Improvement) has approved the separation of an FT into two or more FTs under section 56B of the NHS Act, it will make an order transferring property and liabilities to the new FTs under section 57.

Dissolutions of FTs under Section 57A of the NHS Act

48. An FT may make an application to Monitor (operating under the umbrella of NHS Improvement) for its dissolution under section 57A of the NHS Act and, if approved, Monitor must make an order transferring the property of the trust (if any) to the SofS.

4. Contact Points

49. Queries on NHS charity policy and formal transfers requiring SofS approval should be addressed to:

NHS Charity Policy Lead
Department of Health
Quarry House
Quarry Hill
Leeds
LS2 7UE
Tel: 0113 254 5000
Email: NHSCharityQueries@dh.gsi.gov.uk

50. Non-statutory charitable property transfers and other issues not covered by this guidance should be addressed to:

Charity Commission
NHS Review Section
Liverpool
Tel: 0151 703 1528
Online contact form:
<http://forms.charitycommission.gov.uk/contact-us/general-enquiries/make-a-general-enquiry/contacting-us-online/contacting-us/>

Annex A - Formal Transfer (SofS Transfer Order)

Section 213 Transfer Orders (Statutory Instruments)

1. Section 213 of the NHS Act enables the SofS to transfer trust property, by order, between relevant health service bodies - which includes NHS bodies such as NHS trusts and FTs, and trustees for those NHS bodies - where there is a change in the arrangements for the administration of a hospital, or other establishment or facility, or in the area or functions of any NHS body other than a FT.
2. If, in exceptional circumstances, NHS Trustees consider that it might be preferable for charitable property to be transferred between NHS bodies using a Transfer Order, they should [consult DH](#) who will decide whether it is appropriate.
3. A Transfer Order will move the ownership and/or management of the funds between NHS Trustees. The effect is simply to alter the trusteeship - it does not alter the charitable trusts themselves, unless the SofS has exercised the power to apportion property in section 213(4) of the NHS Act. An outgoing corporate trustee may reasonably seek an indemnity covering properly incurred liabilities relating to the transferred funds.

Starting the Application Process and Timing

4. NHS Trustees should allow six months for completing a transfer under the formal statutory transfer process.
5. Where NHS Trustees consider that there are exceptional circumstances, as mentioned at [Paragraph 2](#) above, and having obtained agreement from DH of a formal transfer of funds held on trust (by way of a SofS Transfer Order), NHS Trustees will need to obtain agreement between all the relevant parties that the transfer should take place before they begin the application process.
6. The process then begins with a request for a formal transfer which must be made by the body that is the Trustee for the funds it is proposed to transfer - see [Paragraph 41 in Chapter 3](#).
7. Since orders for the transfer of trust property between NHS bodies under section 213 of the NHS Act are Statutory Instruments, they must be laid before Parliament for 28 days for consideration before they can come into force. Dates for Parliamentary sittings can be found on [the website for Parliament](#)^{xiv}. DH should not lay a Statutory Instrument while Parliament is in recess.

Completing the Documentation

Use of full name of bodies

8. The first step in the formal transfer process is to complete a draft version of the schedule for the transfer of trust property - see [Appendix 1](#). The full names of bodies, as set out on their establishment order must be used, e.g. XYZ National Health Service Trust, rather than XYZ NHS Trust. In the situation where a name change or change of status of a body is proposed, care should be taken to use the name which will be current at the likely time of signing the schedule.

Complete a schedule for each receiving body

9. A separate schedule and annexes are required to be completed for the transfer of trust property between each transferring body and each receiving body and the apportionment of funds identified. Where charitable funds are being transferred to more than one trustee, multiple schedules will therefore be required. eg Trust A is transferring funds to Trust B and FT C due to service reorganisation. Two schedules and their annexes would be required, one for the transfer from Trust A to Trust B and one for Trust A to FT C.

Complete using last audited figures

10. [Annex A](#) to the schedule must only be completed using the figures from the last audited accounts of the charity. It should detail both the total value of funds that the charity holds, which must be analysed as 'Restricted Income funds', 'Unrestricted income funds' and 'Endowment funds' and the amount of funds to transfer to the new trustees under each of these descriptions.
11. Although amounts on Annex A will be those at the latest available audited accounts date, these figures won't necessarily be the values that actually transfer. Any subsequent movement in funds from the date of the last audited accounts up to the transfer date specified in the Transfer Order must be taken into account when the actual transfer takes place.

Land and buildings

12. [Annex B](#) to the schedule should list any land and buildings that the charity holds that are to transfer. If there is none to transfer, Annex B is not required to be submitted.

Approval and signing of draft schedules

13. Once completed, and before any signatures are sought, draft schedules and completed Annex(es) should be [emailed to DH](#) for checking and approval by officials and the DH legal team. No amendments should be made to the wording of the schedule without written agreement of DH, who will consult with their legal team to agree the final version to be signed by the parties in the transfer.

14. After DH has given approval to the draft Transfer Order, the schedule must be both signed and dated by the Chair or Chief Executive of the transferor body and the receiving body. The same original version of the schedule must be signed by both bodies - i.e. both signatures must be on the same sheet of paper. Photocopied or electronic signatures will not be accepted. For this reason we encourage signatures to be made in non-black ink.

Supporting Statements

15. Applications for transfers of trust property must also be supported by a statement from each of the bodies involved - see [Appendix 2^{xv}](#). This should set out when the transfer has been approved by the relevant trustees and, where appropriate, what consultation on the transfer of the services which the funds support, has been undertaken.

Timing of funds transfer

16. Where assets are to be transferred it is important that the funds (including assets) are actually transferred as near as possible to the agreed transfer date and that all records relating to trusts transferred are passed on to the recipient body (who may have to account for transactions made prior to the transfer). Once the transfer has taken place, the receiving body should contact the Charity Commission to inform them of the details of the transfer of trusteeship of the funds.

Appendix 1 - Example of schedules to transfer funds held on trust

SCHEDULE OF TRUST PROPERTY

Trust Property transferring from **Full name of NHS Body (as per Establishment Order - e.g. XYZ National Health Service Trust if applicable) or other NHS Trustee**

To **Full name of NHS Body (as per Establishment Order - e.g. XYZ National Health Service Trust if applicable) or other NHS Trustee**

By Order made under section 213 of the National Health Service Act 2006

The trust property to transfer is that which is described in Annex A (below) as transferring to [name of NHS body or NHS Trustee as above] and which at 31st March 20xx¹ was valued at £xxxx [and includes the land and buildings described in Annex B (below) to this schedule]².

We the undersigned certify that this Schedule and Annex A² [and Annex B²] have been completed to the best of our knowledge and belief. We accept that all transactions between the 31st March 20xx¹ and the coming into force of the transfer order will be reflected in the final balances. We agree that any retrospective adjustment to the value due to audit or other causes is included.

[The following alternative simpler wording can be used to replace the above only where all of the transferring trust's property is to be transferred to a single receiving body:

The trust property is all of the trust property held at the date of coming into force of the transfer order [and includes the land and buildings described in the annex to this schedule]².

We the undersigned certify that this Schedule [and Annex²] has been completed to the best of our knowledge and belief.

In this case, Annex A is not required, but may be included if wished. Annex B is required if land or property are involved in the transfer]

The trust property to transfer is all of the trust property held at the date of coming into force of the transfer order. That property as held at [date], is described in Annex A. On that date it was valued at [£xxx,xxx].

We the undersigned certify that this Schedule and Annex A [and Annex B²] have been completed to the best of our knowledge and belief. We accept that all transactions

between the [date] and the coming into force of the transfer order will be reflected in the final balances, such that all of the trust property held by [**the transferring body**] as at the transfer date will transfer. We agree that any retrospective adjustment to the value due to audit or other causes is included.

Transferring body: **Name of NHS Body (as per Establishment Order - e.g. XYZ National Health Service Trust if applicable) or other NHS Trustee**

Chair / CE signature

Date:

Receiving Body: **Name of NHS Body (as per Establishment Order - e.g. XYZ National Health Service Trust if applicable) or other NHS Trustee**

Chair/ CE signature

Date:

Notes ¹ *date of the last audited accounts*
² *include or delete as appropriate*

Annex A

Trust Property transferring from: **Full name of NHS Body (as per Establishment Order - e.g. XYZ National Health Service Trust, if applicable) or other NHS Trustee**

To **Full name of NHS Body (as per Establishment Order - e.g. XYZ National Health Service Trust if applicable) or other NHS Trustee**

By Order made under section 213 of the National Health Service Act 2006

Funds¹	Balance² at 31st March 20xx	Funds transferred to [Full name of NHS Body (as per Establishment Order - e.g. XYZ National Health Service Trust if applicable) or other NHS Trustee]	Proportion of fund transferred
	£	£	%

**Restricted income
funds**

**Unrestricted
income funds**

Endowment funds

TOTAL

Notes ¹ *do not list designated ("earmarked") funds separately*

² *figures under the balance column must match those in the last audited accounts*

Annex B

SCHEDULE OF TRUST PROPERTY LAND AND BUILDINGS

Trust Property transferring from: **Full name of NHS Body (as per Establishment Order, if applicable) or other NHS Trustee**

To **Full name of NHS Body (as per Establishment Order, if applicable) or other NHS Trustee**

By Order made under section 213 of the National Health Service Act 2006

Land / property detail 1 Land Registry ref (where known)

Land / property detail 2 Land Registry ref (where known)

Land / property detail 3 Land Registry ref (where known)

etc

Completion Notes to Schedules

- i. A separate schedule and annexes are required to be completed for transfers between each transferring body and each receiving body - e.g. Trust A is transferring funds to Trust B and FT C due to service reorganisation. Two schedules would be required, one for Trust A to Trust B and one for Trust A to FT C.
- ii. No amendments should be made to the wording of the schedule without the agreement of DH, who will consult their Legal Team to agree the final version to be signed by both parties in the transfer.
- iii. Restricted funds may be assigned to a particular trustee or apportioned where appropriate (for charitable trusts, the Charity Commission can advise if there is any doubt). General purpose funds will normally be apportioned on an agreed basis. The percentage should be entered as the basis for the final distribution of the audited balances.
- iv. On Annex A, the 'Balance at 31st March xxxx' column should be completed using the last audited balances values, as shown in the Charity's accounts.
- v. There is no requirement to complete Annex B if there are no land or buildings transferring.
- vi. Usable templates of these documents are posted in Microsoft Word format on the www.gov website at the same location as this guidance.

Appendix 2 – Statement in support of transfer

NHS body/charity:	Note: each body involved in the transfer should complete a statement in support of the transfer
Name:	Name of individual completing statement. Need not be the Chair or Finance Director but should be someone on the charity committee
Role:	

Transferring body: The full name of the body from who the funds are to be transferred e.g. WXYZ National Health Service Trust
Receiving body : The full name of the body to whom the funds are to be transferred

Statement

Insert statement here...

The Chair of any NHS body or non-corporate Trustees involved in the transfer, whether transferring or receiving them, should send a short statement, signed and dated, in support of the transfer. This can be sent ahead of the signed schedule, at the same time or shortly after.

Reason for transfer

The statement should include a brief description of the reasons for transferring the funds (e.g. transfer of services, merger of bodies etc),

Approval of transfer

The decision to transfer, where appropriate the dates of any discussion at board/committee level where the decision to transfer them was approved, and if any alternative arrangements for managing the funds had been considered.

Details of Consultation

To be completed by the transferring body only. Where the transfer has involved the transfer or reconfiguration of services, the Chair of the body transferring the services should also include brief details of any consultation undertaken relating to the service transfer itself, including the dates of the consultation. No consultation is required for the transfer of the charitable funds themselves.

Signature

Date

-
- i <http://www.legislation.gov.uk/ukpga/2006/41/part/11/chapter/2>
- ii NHS Improvement is the operational name for the organisation that brings together Monitor, NHS Trust Development Authority, Patient Safety, the National Reporting and Learning System, the Advancing Change team and the Intensive Support Teams. <https://improvement.nhs.uk/>
- iii <http://www.legislation.gov.uk/ukpga/2016/10/contents>
- iv https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/419157/NHS_Charities_guidance.pdf
- v The Charity Commission website, <https://www.gov.uk/government/organisations/charity-commission>, has general guidance but also specific guidance for NHS charities at <https://www.gov.uk/government/publications/nhs-charities-guidance>
- vi <https://www.gov.uk/government/publications/charities-and-investment-matters-a-guide-for-trustees-cc14>
- vii <http://www.institute-of-fundraising.org.uk/library/donation-acceptance-and-refusal/>
- viii <http://www.institute-of-fundraising.org.uk/home/> The Institute of Fundraising is itself a charity providing advice to charities
- ix <https://www.gov.uk/topic/running-charity/fundraising>
- x <http://charitiessorp.org>
- xi <https://www.gov.uk/guidance/prepare-a-charity-annual-return>
- xii Charity money, tax and accounts section <https://www.gov.uk/topic/running-charity/money-accounts>
- xiii <https://www.hfma.org.uk/publications/details/nhs-charitable-funds---example-trustee-annual-reports-and-accounts>
- xiv <http://www.parliament.uk/about/faqs/house-of-commons-faqs/business-faq-page/recess-dates/>
- xv Some of the the information on the supporting statement may be used to provide background in the submission to Minister requesting approval for the transfer and the explanatory memorandum that accompanies the published SI.