

The Dissolution of the Portsmouth Healthcare National Health Service Trust (Transfer of Staff, Property, Rights and Liabilities) Order 2002

The Secretary of State for Health, in exercise of powers conferred on him by section 126(4) of the National Health Service Act 1977 and by paragraph 30 of Schedule 2 to the National Health Service and Community Care Act 1990 and of all other powers enabling him in that behalf, after completion of statutory consultation, hereby makes the following Order:

Citation, commencement and interpretation

1 —(1) This Order may be cited as the Portsmouth Healthcare National Health Service Trust (Transfer of Staff, Property, Rights and Liabilities) Order 2002 and shall come into force on 1st April 2002.

(2) In this Order, unless the context otherwise requires—

“the old trust” means the Portsmouth Healthcare National Health Service Trust;

“the transfer date” means 1st April 2002 (the date on which the old trust is to be dissolved);

“the relevant new trust” means :

- (a) in respect of staff, property, rights and liabilities identified in Part I of the Schedule, the Portsmouth City Primary Care Trust;
- (b) in respect of staff, property, rights and liabilities identified in Part II of the Schedule, the East Hampshire Primary Care Trust;
- (c) in respect of staff, property, rights and liabilities identified in Part III of the Schedule, the Fareham and Gosport Primary Care Trust;
- (d) in respect of staff, property, rights and liabilities identified in Part IV of the Schedule, the West Hampshire National Health Service Trust;
- (e) in respect of staff, property, rights and liabilities identified in Part V of the Schedule, the Portsmouth Hospitals National Health Service Trust;
- (f) in respect of staff, property, rights and liabilities identified in Part VI of the Schedule, the Winchester and Eastleigh Healthcare National Health Service Trust;

“the Schedule” means the Schedule to this Order.

Transfer of employees to the relevant new trust

2 —(1) This article applies in relation to any person who, immediately before the transfer date, was an employee of the old trust.

(2) The contract of employment between a person in relation to whom this article applies and the old trust shall have effect from the transfer date as if originally made between him and the relevant new trust.

(3) Without prejudice to paragraph (2) above—

- (a) all the rights, powers, duties and liabilities of the old trust under, or in connection with, a contract to which that paragraph applies shall, by virtue of this article, be transferred to the relevant new trust on the transfer date;
- (b) anything done before that date by, or in relation to the old trust in respect of that contract or that employee, shall be deemed from that date to have done by, or in relation to, the relevant new trust.

(4) Paragraphs (2) and (3) above are without prejudice to any right of any employee to terminate his contract of employment if a substantial change is made to his detriment in his working

conditions, but no such right shall arise by reason only of the change in employer effected by this article.

Transfer of property, rights and liabilities of the old trust

3 —(1) On the transfer date, all the property, rights and liabilities of the old trust identified in the Schedule to this Order and not mentioned in article 2 above, shall be transferred to the relevant new trust.

(2) In paragraph (1) above "property, rights and liabilities" include, without limitation—

- (a) the obligation to prepare the outstanding accounts of the old trust and to perform all statutory duties relating to those accounts;
- (b) the outstanding originating capital of the old trust and any loans made to it; and
- (c) the trust property of the old trust.

Investigation of complaints by Health Service Commissioner

4 —(1) A complaint made under the Health Service Commissioners Act 1993 to the Health Service Commissioner for England in relation the old trust, whether made before, on or after the transfer date, may be investigated by the Commissioner notwithstanding the dissolution of the old trust as if the complaint had been made in relation to the relevant new trust.

(2) The Health Service Commissioner for England, where he conducts such an investigation, shall send a report of the result of his investigation to the relevant new trust.

Provision for continuity in exercise of functions

5 —(1) Anything duly done by, and any application duly made by, or any direction, authorisation or notice given to or by the old trust in relation to any of its property, rights or liabilities shall be deemed to have been duly done by or made by or given to or by the relevant new trust.

(2) Any instrument made by the old trust continues in force in relation to the relevant new trust until it is varied or revoked by the relevant new trust.

(3) Any form supplied by the old trust, or any form supplied by the Secretary of State in relation to the old trust, continues to be a valid form in relation to the relevant new trust until it is cancelled or withdrawn by the Secretary of State or the relevant new trust, as if any reference contained in that form to the old trust were a reference to the relevant new trust.

Signed by authority of the Secretary of State for Health

Code A

Date 2002

27th MARCH 2002

ANN MERRICKS

Member of the Senior Civil Service
Department of Health

SCHEDULE*(Article 1(2))***Part I**

Staff, property, rights and liabilities to transfer to the Portsmouth City Primary Care Trust

(1) Staff

The staff to transfer are shown on Annexe 1 (a) attached.

(2) Property

The properties to transfer are shown on Annexe 1 (b) attached.

(3) Rights and Liabilities

All rights and liabilities relating to the above mentioned property, premises and staff.

Part II*Staff, property, rights and liabilities to transfer to the East Hampshire Primary Care Trust***(4) Staff**

The staff to transfer are shown on Annexe 2 (a) attached.

(5) Property

The properties to transfer are shown on Annexe 2 (b) attached.

(6) Rights and Liabilities

All rights and liabilities relating to the above mentioned property, premises and staff.

Part III*Staff, property, rights and liabilities to transfer to the Fareham and Gosport Primary Care Trust***(7) Staff**

The staff to transfer are shown on Annexe 3 (a) attached.

(8) Property

The properties to transfer are shown on Annexe 3 (b) attached.

(9) Rights and Liabilities

All rights and liabilities relating to the above mentioned property, premises and staff.

Part IV***Staff, property, rights and liabilities to transfer to the West Hampshire National Health Service Trust*****(10) Staff**

The staff to transfer are shown on Annexe 4 (a) attached.

(11) Property

The properties to transfer are shown on Annexe 4 (b) attached.

(12) Rights and Liabilities

All rights and liabilities relating to the above mentioned property, premises and staff.

Part V*Staff, property, rights and liabilities to transfer to the Portsmouth Hospitals National Health Service Trust***(13) Staff**

The staff to transfer are shown on Annexe 5 (a) attached.

(14) Property

The properties to transfer are shown on Annexe 5 (b) attached.

(15) Rights and Liabilities

All rights and liabilities relating to the above mentioned property, premises and staff.

Part VI*Staff, property, rights and liabilities to transfer to the Winchester and Eastleigh Healthcare
National Health Service Trust***(16) Staff**

The staff to transfer are shown on Annexe 6 (a) attached.

(17) Property

The properties to transfer are shown on Annexe 6 (b) attached.

(18) Rights and Liabilities

All rights and liabilities relating to the above mentioned property, premises and staff.