

Handover and Closedown Guidance

Transfer documentation: identifying legal title in assets and liabilities and completing transfer documentation

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Handover and Closedown Guidance

Transfer documentation: identifying legal title in assets and liabilities and completing transfer documentation

Prepared by: Integrated Programme Office

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Executive summary

1. Background

The purpose of this Guidance is to assist predominantly SHA and PCT Senders to prepare the instructions to DH Legal for the drafting of the Transfer Schemes under the 2012 Act.

2. What legal documentation is used to transfer assets and liabilities

A Transfer Scheme is an instrument in writing made by the Secretary of State under sections 300 to 302 of the 2012 Act. It can deal with the transfers of staff, property and liabilities between those entities as specified in Schedules 22 and 23 to the 2012 Act but unlike Transfer Orders does not need to be laid before Parliament.

A Transfer Order is an order of the Secretary of State under Schedule 4 to the NHS Act. It is a Statutory Instrument that deals with the transfers of staff, property and liabilities to certain NHS bodies. It must be consulted on and laid before Parliament 28 sitting days before it comes into force.

3. Who is responsible for what?

Department:

- Drawing up policy such as which functions are mapped from Senders to Receivers and how assets and liabilities are to be allocated from Senders to Receivers;
- assuring the contents of the Transfer Schemes as they are instruments of the Secretary of State;
- Instructing DH Legal to draft the Transfer Schemes and Transfer Orders; and
- The signing of the Transfer Schemes by a Senior Civil Servant.

Senders (especially SHAs and PCTs)

- Identifying all assets and liabilities for the purposes of terminating, transferring and/or discharging those assets and liabilities;
- Mapping each asset and liability against a transferring function or functions
- Drafting Transfer Scheme instructions (including attaching conditions to any transfer);
- Identifying and liaising with Receivers and relevant third party stakeholders who are affected by the NHS Transition; and
- Confirming the transfer of assets and liabilities (with and without conditions) with Receivers.

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Receivers

- Confirming the transfer of assets and liabilities (with and without conditions) with Senders.

4. Next steps and key dates

Date	Comment
31 October 2012	Identify powers that are affected – i.e., to be abolished, created, merged under the NHS Transition
15 November 2012	<ul style="list-style-type: none">• All Senders details by correct legal entity provided• First set of instructions for Transfer Schemes submitted to secure datasite
13 December 2012	Second set of instructions for Transfer Schemes submitted to secure datasite
31 December 2012	<ul style="list-style-type: none">• All new Receiver bodies established by correct legal entity details• All assets and liabilities of Senders allocated to nominated Receiver(s)
17 January 2013	Third set of instructions for Transfer Schemes submitted to secure datasite
31 January 2013	Final set of instructions for Transfer Orders to be submitted to secure datasite
14 February 2013	Fourth set of instructions for Transfer Schemes submitted to secure datasite
14 March 2013	Final set of instructions for Transfer Schemes submitted to secure datasite
Week commencing 25 March 2013	Transfer Schemes signed by a Senior Civil Servant
1 April 2013	<ul style="list-style-type: none">• Legal Title transfers• SHAs and PCTs abolished

INTRODUCTION

1. An appropriate, transparent and auditable process needs to be adopted by the affected entities in order to deliver the transition of the NHS as completed by the amendments to the NHS Act 2006 (**NHS Act**) made by the Health and Social Care Act 2012 (**2012 Act**) (**NHS Transition**).
2. The purpose of this Guidance is to:
 - identify the legal title in all of the assets and liabilities held by the Department of Health (**Department**), Strategic Health Authorities (**SHAs**) and Primary Care Trusts (**PCTs**) (**Senders**¹);
 - outline the legal process that will effect the transfer of assets and liabilities from Senders to the Department, executive agencies such as Public Health England (**PHE**) and National Health Service Commissioning Board (**NHS CB**), Clinical Commissioning Groups (**CCGs**), Special Health Authorities (such as Health Education England (**HEE**)), Local Authorities, NHS Property Services Ltd (**NHS PS**²) and in some instances to NHS Trusts and NHS Foundation Trusts (Providers) (**Receivers**³);
 - assist Senders and Receivers to map the legal title of assets and liabilities against the functions that transfer in order to:
 - provide instructions to enable the Department to draft certain transfer documentation;
 - identify where more than one Receiver will have a right or interest in the relevant asset or liability to:
 - determine which Receiver the asset or liability should transfer to; and
 - ensure that each Receiver's right or interest in the relevant asset or liability is appropriately recognised in the implementation of the NHS Transition;
 - assist Senders and Receivers to satisfy their statutory and other governance obligations.
3. This Guidance is predominantly aimed at SHAs and PCTs which will be abolished on 1 April 2013 and the assets and liabilities of which must be transferred or discharged as part of the NHS Transition. However, other Senders and Receivers may also find this Guidance helpful.
4. This Guidance should be read in conjunction with other guidance published by the Department on:
 - land and buildings and related assets rights and liabilities: as comprised in the guidance PCT Estate: Future ownership and management of estate in the ownership of Primary Care Trusts in England, David Flory's letter to SHAs and PCTs dated 31 May 2012 titled "Planning for Property and Estates Transfers" and subsequent FAQs;

¹ In the Transfer Schemes and Transfer Orders Senders will be referred to as "transferors".

² A company formed by the Secretary of State under section 223 of the NHS Act.

³ In the Transfer Schemes and Transfer Orders Receivers will be referred to as "transferees".

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- staff and employees: to be issued by the Department. Please note that the HR guidance will not include:
 - people retained as contractors, those contracts should be included in the instructions to be submitted pursuant to this Guidance;
 - All details of an employee's package, such as car leases or mobile phones, those are separate contracts between the employer and the third party service provider which are to be included in the instructions to be submitted pursuant to this Guidance;
- Clinical Contracts Guidance⁴;
- Maintaining Quality through Handover Guidance;
- Intellectual Property Rights: published by the Department;
- Any other Guidance published by the Department from time to time in respect of the NHS Transition.

5. This Guidance is not intended to supersede the issued guidance referred to above and the work required to be undertaken pursuant to them should continue.

6. This Guidance sets out:

- why a process is needed;
- who is involved in the NHS Transition;
- what the process is;
- a definition of "assets" and "liabilities";
- where Senders obtain clarity about how assets and liabilities should be transferred if no Receiver is nominated or if there is more than one Receiver; and provides
- sample legal documents for the NHS Transition:⁵
 - Annex 1: (**Sample Transfer Scheme**);
 - Annex 2: (**Template List of Assets and Liabilities**) A high level template to assist in identifying the legal title and rights and interests in assets and liabilities. This information will inform whom certain assets and liabilities transfer to and

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http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_131039

http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_13430 and the forthcoming 'Shift' Guidance

⁵ These documents are **for information only** and are intended as a guide only to the type of provisions that may be included in Transfer Schemes or Transfer Orders. They are not intended to be definitive of the form in which Transfer Schemes or Transfer Orders will be made and should therefore not be used or relied upon by Senders or Receivers.

5 It is recognised that SHAs and PCTs are currently completing the property transfer scheme schedules at Annex A of the David Flory planning for property and estate transfer letter. A number of the assets detailed in the high level template which is provided as a tool to assist in identifying assets and liabilities will already be included in the "Annex A" property transfer scheme schedule. Work to complete the "Annex A" property transfer scheme schedules should continue. In completing lists/schedules of assets SHAs and PCTs may add extra worksheets to the "Annex A" property transfer scheme schedule.

what (if any) rights and interests other Receivers may require in relation to the particular asset or liability;⁶

- Annex 3: **(Template instructions for a Transfer Scheme)**
- Annex 4: **(Sample Transfer Schedule between Senders and Receivers)**; and
- contact details for further information on this Guidance.

7. This Guidance is not a comprehensive overview of the legal or other issues or processes that will affect every Sender and Receiver as part of the NHS Transition. Each Sender and Receiver will need to obtain their own legal advice to satisfy their respective statutory and internal governance obligations in respect of the NHS Transition.

8. This Guidance does not apply to the transfer of Staff. Please refer to the Department's HR Guidance in respect of transfers of staff. It does, however, apply to transfers of contractors' contracts, as those contracts are contracts for services. It also applies to elements of a member of staff's package such as car finance leases and mobile phone contracts.

9. This Guidance does not include any finance, accounting or tax advice. Each Sender and Receiver will need to refer to separate Finance Guidance and potentially obtain independent advice on these issues in respect of the NHS Transition.

PROCESS

1. Why is a process needed?

1.1 In the majority of other re-organisations of NHS entities or where an NHS entity has been abolished, the entire assets and liabilities of that NHS entity have traditionally transferred to a new replacement entity (for example, when an NHS Trust becomes an NHS Foundation Trust). In those cases, the transfer documentation has provided for generic descriptions of assets and liabilities.

1.2 However, under the NHS Transition, the majority of SHA and PCT assets and liabilities will be split between different Receivers and, in some cases, multiple Receivers will require access to an asset.

1.3 This means that the process adopted for the NHS Transition needs to be sufficiently robust and that all assets and liabilities need to be identified correctly and by reference to their registered legal owner.

1.4 Further, legal title in the relevant asset must transfer from one legal entity to another. It is not possible to transfer to a non-legal entity, for example, a business unit (such as the new Improvement Body – the legal entity owner in this instance will be the NHS Commissioning Board) or a hosted body (such as a Commissioning Support Unit– the legal entity owner in this instance will be the NHS Commissioning Board).

1.5 A robust process is needed to:

- (a) ensure that Senders and Receivers satisfy their statutory and other governance obligations;
- (b) ensure that no Sender asset or liability remains unaccounted for in the NHS Transition;
- (c) create an appropriate audit trail and record of how the NHS Transition was achieved;
- (d) provide certainty and clarity to all affected entities and people affected by the NHS Transition;
- (e) enable the legal documents necessary to implement the NHS Transition to be drafted;
- (f) implement the NHS Transition; and
- (g) assist with the close down of SHAs and PCTs.

1.6 The process is underpinned by identifying:

- (a) Who is affected by the NHS Transition, currently categorised as “Senders” and “Receivers”. However, there will be other entities

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who have rights in assets currently or who will need them in the future.

- (b) What the assets and liabilities are and ensuring that the legal title is identified correctly so that they can be transferred, disposed of or discharged.
- (c) What legal steps are required to implement the NHS Transition. This will vary depending on the entities concerned as well as the assets that transfer and the liabilities that transfer or are discharged.
- (d) When: The timeline(s) for when the activity in (a), (b) and (c) must be completed. **Please note that the timelines for the transfer of staff and/or assets and liabilities associated with land and buildings⁷ in most instances is different to the timeline(s) in this Guidance.**

1.7 The process will also assist to identify what assets, rights and liabilities exist in the existing structure in order to determine:

- whether there are any third party rights/interests in the asset/liability;
- whom the asset should transfer to (including any associated rights that should be granted to a third party); and
- whether any conditions should be attached to the transfer of an asset or a liability.

2. Who is involved in the NHS Transition

Senders, Receivers and interested third parties

2.1 The principal entities affected by the NHS Transition are Senders and Receivers as listed in Schedules 22 (property and liabilities) and 23 (staff) of the 2012 Act. This Guidance focuses on the work to be done by Senders and Receivers.

- **Senders:** legal entities that currently own assets that support statutory functions or liabilities that have been incurred (or may be incurred) in the performance of those statutory functions that are to be abolished or have their statutory functions removed because of the NHS Transition.
- **Receivers:** legal entities (new and existing) that will assume statutory functions as a result of the NHS Transition and will need assets to support those functions and/or will be responsible for satisfying the liabilities of those Senders who are abolished because of the NHS Transition.

⁷ The timelines detailed in the David Flory letter timelines should continue to be adhered to.

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2.2 For the purposes of completing the Transfer Schemes for property, rights and liabilities, the list of Senders and Receivers is set out in Schedule 22⁸ of the 2012 Act as:

Sender	Permitted Receiver
A Primary Care Trust	The Secretary of State
	The National Health Service Commissioning Board
	A clinical commissioning group
	A local authority
	The Care Quality Commission
	Monitor
	A Special Health Authority
	Any public authority which provides services as part of the health service in England
	Any other person who provides services as part of the health service in England and consents to the transfer (such as NHS Trusts and FTs)
	A qualifying company (such as NHS PS)
A Strategic Health Authority	The Secretary of State
	The National Health Service Commissioning Board
	A clinical commissioning group
	A local authority
	The Care Quality Commission
	Monitor
	A Special Health Authority
	Any public authority which provides services as part of the health service in England
	Any other person who provides services as part of the health service in England and consents to the transfer

⁸ Schedule 23 for Staff Transfer Schemes is slightly different to Schedule 22 in terms of how the Permitted Receivers are defined. Separate advice should be taken in respect of staff transfers.

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Sender	Permitted Receiver
	A qualifying company
	Any person with whom the Secretary of State has made, or has decided to make, an agreement under section 12ZA(1) of the Mental Health Act 1983
The Special Health Authority known as the National Institute for Health and Clinical Excellence	The National Institute for Health and Care Excellence (established under section 232)
The Special Health Authority known as the Health and Social Care Information Centre	The Health and Social Care Information Centre (established under section 252)
The Special Health Authority known as the NHS Institute for Innovation and Improvement	The National Health Service Commissioning Board
The Special Health Authority known as the National Patient Safety Agency	The National Health Service Commissioning Board
The Special Health Authority known as the NHS Business Services Authority	The Health and Social Care Information Centre
The Appointments Commission	A Minister of the Crown
	A Special Health Authority
The General Social Care Council	The Secretary of State
	The Health and Care Professions Council
	A person authorised by the Secretary of State under subsection (5)(b) of section 67 of the Care Standards Act 2000 to exercise functions of the Secretary of State under that section
	Any other person who carries on activities in connection with social work or social care work
The Health Protection Agency	The Secretary of State
The Secretary of State	The National Health Service Commissioning Board
	The Health and Social Care Information Centre
	A Special Health Authority
	A qualifying company

Third Parties with rights

2.3 The other entities that are affected by the NHS Transition and the transfer of assets and liabilities will be those entities that have legal rights in the relevant asset or liability. They may not necessarily be stakeholders.

2.4 Examples of third parties who will have a legal interest are:

- Regulatory bodies such as HMRC, the NAO, courts, tribunals and so on;
- creditors / debtors;
- registered and unregistered licence holders in intellectual property rights;
- registered or unregistered landlords, tenants or subtenants; and
- contract counterparties irrespective of whether or not the contract is written or unwritten and also, in some cases, whether the contract has expired.

2.5 Third parties do not include patients and employees.

2.6 These entities need to be identified and in most instances notified or engaged with to ensure that their rights are released from the existing arrangements and/or transferred to the new ones.

Details of Senders and Receivers for transfer documents

2.7 Each Sender and Receiver will need to be identified in the transfer documents by their correct legal title and status. An example of the information that will need to be provided for both Senders and Receivers is:

Item	Explanation
Full legal name	This can be found: <ul style="list-style-type: none">• If a statutory body: on the Establishment Order or other relevant statutory establishment instrument• If a company: on the certificate of incorporation (including Companies House registration number)
Registered Address	This is the address used for the service of notices under contracts or as required by regulatory bodies or authorities. It must not be a post office box but a street address.
Names, roles and addresses of authorised officers	Note: Authorised officers must be in position for each SHA and PCT, irrespective of whether or not they have clustered.
VAT number	

3. Transfer Schemes and Transfer Orders

3.1 A Transfer Scheme is an instrument in writing made by the Secretary of State under sections 300 to 302 of the 2012 Act. It can deal with the

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transfers of staff, property and liabilities between those entities as specified in Schedules 22 and 23 to the 2012 Act but unlike Transfer Orders does not need to be laid before Parliament.

3.2 A Transfer Order is an order of the Secretary of State under Schedule 4 to the NHS Act. It is a Statutory Instrument that deals with the transfers of staff, property and liabilities to certain NHS bodies. It must be consulted on and laid before Parliament 28 sitting days before it comes into force.

3.3 The majority of assets and liabilities (including all land and buildings) will transfer by way of a Sender organisation's Transfer Scheme.

3.4 Transfer Orders can be used to capture NHS and non-NHS bodies as Senders but must identify specific NHS Bodies who are Receivers.

3.5 Specific advice will need to be sought in respect of the use of Transfer Orders and the Department anticipates that these will be used in very limited circumstances for the transfer of assets and liabilities of SHAs and PCTs.

3.6 SHAs and PCTs should assume that a Transfer Scheme will apply in respect of transfers of all assets and liabilities. The Department and those Receivers who are covered by Transfer Orders will notify SHAs and PCTs of which functions are specifically to be covered by a Transfer Order.

4. The process outlined

Note: The dates outlined in the table below may be different to those set out in the Guidance for staff and land and buildings transfers.⁹

Step 1:	Identify powers that are affected – i.e., to be abolished, created, merged under the NHS Transition Timing: No later than 31 October 2012*
Step 2:	Establish new bodies contemplated by NHS Transition <i>[Note: NHS CB is legally established on 1 October 2012 and authorisation commences for CCGs on 1 November 2012]</i> Timing: Receivers must be completed by 31 December 2012
Step 3:	List all Sender and Receiver organisations by correct legal entity, authorised officers <i>[Note: NHS CB is legally established on 1 October 2012 and authorisation commences for CCGs on 1 November 2012]</i> Timing: Senders must be completed by 15 November 2012. Receivers must be completed by 31 December 2012
Step 4:	Senders to list ALL assets and liabilities subject of NHS Transition (ie, those that transfer and not those that will be disposed of or discharged) Timing: Must be completed by 15 November 2012

⁹ The time lines detailed in the David Flory planning for property and estate transfers should continue to be adhered to in relation to land and buildings.

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Step 5:	<p>Receivers to be nominated and other Receivers/stakeholders and their rights to be identified</p> <p>If no Receiver is nominated and it is determined that: (i) the asset is no longer required; the asset to be disposed of; or (ii) the liability is not to transfer to a Receiver; the liability is to be discharged.</p> <p>Timing: No later than 31 December 2012</p>
Step 6: ¹⁰	<p>Legal documents to be drafted for transfer of legal title and legal rights in assets and liabilities. Can commence now but must be completed for Transfer Orders by 31 January 2013 and for Transfer Schemes no later than 14 March 2013.</p>
Step 7:	<p>Board meeting of Senders to authorise transfer of assets and liabilities under relevant legal documents</p> <p><i>[Note: either legal documents signed or authorised signatories/delegates appointed to sign legal documents]</i></p> <p>Timing: Must occur BEFORE Step 8 (can occur on the same day) but no later than the week commencing 25 March 2013.</p>
Step 8:	<p>Board meeting of Receivers to confirm their understanding of the transfer of assets and liabilities under relevant legal documents</p> <p><i>[Note: either legal documents signed or authorised signatories/delegates appointed to sign legal documents]</i></p> <p>Timing: Must occur AFTER Step 7 (can occur on the same day) but no later than the week commencing 25 March 2013.</p>
Step 9:	<p>Legal Title transfers of assets and liabilities</p> <p>Timing: 31 March 2013 for legal transfer but physical delivery and payment of any funds will occur on 28 March 2013 (with funds held in escrow and released to Receivers on 2 April 2013). As SHAs and PCTs will be abolished on 1 April 2013, legal title must transfer on the day prior to their abolition.</p>
Step 10:	<p>Close down of those Senders who are being abolished</p>

¹⁰ The property transfer scheme schedules required at Annex A of the David Flory planning for property and estate transfer letter will form the basis for instruction in relation to land and buildings. The timelines detailed in the David Flory planning for property and estate transfer letter should continue to be adhered to in order to ensure that property related parts of the transfer schemes can be finalised by 31 December 2012.

ASSETS AND LIABILITIES

5. Defining Assets and Liabilities

5.1 The “assets” of a Sender are those things that a Sender uses in performing its statutory functions or business, such as, the premises where they operate, any plant and equipment, the IT that they use and any contracts entered into by them with third parties. The “liabilities” of a Sender, for the purposes of a Transfer Scheme, may also include any outstanding obligations, disputes, claims by third parties (including legal claims and enforcement notices) under a contract or monies owed by the Sender.

5.2 Under the 2012 Act the type of “property” or “assets” that can be included in a Transfer Scheme is very wide. It can include such items as consents, licences and permits (even those expressed to be personal) which are issued by regulatory bodies as well as intellectual property rights, such as trade marks, that may be registered in jurisdictions other than England and Wales.

5.3 Annex 2 (**Sample List of Assets and Liabilities**) is a high level template which will assist:

- to identify all of the Sender’s assets and liabilities;
- to identify the legal owner (whether registered or unregistered or shared ownership) of the relevant asset or liability;
- to identify any third party rights and interests in an asset or liability. For example, multiple parties who have an interest in or access to data. Note, this should also identify where a SHA or PCT is not the legal owner of an asset but has a right of access to it in order to perform a statutory function;
- in the preparation of the schedules containing information that will need to be included in the transfer documentation.

5.4 Annex 2 (**Sample List of Assets and Liabilities**) includes a number of examples of types of assets and liabilities that may exist. This list is not exhaustive. Senders will need to create full lists of all assets and liabilities to satisfy themselves that all have been correctly identified for the purposes of the NHS Transition.

5.5 It is recognised that much of the work to identify land and buildings and property related assets rights and liabilities is already underway and is currently being detailed in the property transfer scheme schedule required at Annex A of the David Flory planning for property and estate transfer letter. To avoid any overlap and duplication of process PCTs and SHAs may use the property transfer scheme schedule as a basis for detailing the remainder of their assets and liabilities by simply added extra worksheets to it.

5.6 As SHAs and PCTs will be abolished on 1 April 2013 **all** of their assets and liabilities must be identified and either transferred, disposed of or discharged prior to 1 April 2013.

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5.7 In the first instance all assets and liabilities should be identified by category or class and then to the extent possible and by reference to the materiality of that item to the functions to be performed by the Receiver by individual item. While there will be a focus on those assets and liabilities which have a greater materiality than others, it will be up to SHAs and PCTs to ensure that all assets and liabilities, irrespective of number or value, are transferred to a nominated Receiver.

5.8 The Transfer Schemes will include provisions to capture all assets and liabilities not specifically identified in the property schedules (refer to Annex 3 to this Guidance). However, each class of asset and liability needs to be allocated to the appropriate Receiver with an appropriate level of granularity.

5.9 SHAs and PCTs must:

- in the case of an asset:
 - identify what is currently used by the SHA or PCT (this includes conducting an equipment audit and reviewing asset registers and inventory lists to ensure that they are accurate);
 - review the condition of the asset with a view to determining whether any rectification work needs to be undertaken (eg, ensuring that data or records comply with the requirements of the Information Commissioner), it is appropriate or value for money to transfer the asset to a Receiver or dispose of it prior to the transfer (eg, if equipment is broken and the replacement cost is cheaper than the repair cost). Please also review this requirement against the allocations of provisions in a PCTs' accounts for maintenance. This may be addressed further in the Finance Guidance;
 - identify any conditions attached to the transfer and/or future use of the asset by a Receiver which need to be identified and included in the Transfer Schemes;
- in the case of liabilities:
 - identify all actual and classes of liabilities in accordance with the Claims and Liabilities Guidance to be published by DH Finance;
 - those that are appropriate and represent value for money to discharge prior to 31 March 2013 are discharged;
 - all relevant information and assets (such as data and records and, if relevant, security access details to such data and records) which relate or correspond to the liability (for example, in relation to a contractual dispute, the original contract (even if terminated or expired), correspondence between the SHA/PCT and relevant counterparties and/or lawyers, proceedings commenced etc) are identified for the purposes of identifying the appropriate Receiver(s).

5.10 Please note in particular that the liabilities of a sender include expired contracts, particularly where there is an ongoing or potentially contingent obligation in respect of that contract.

5.11 Neither Senders nor Receivers should use the Transfer Scheme as a means of imposing conditions on the transfer of assets and liabilities (irrespective of whether or not those assets and liabilities are documented or undocumented) without having engaged with and obtained the consent of the relevant affected party or stakeholder.

5.12 Senders should be aware that assets and liabilities for legal purposes might be different to those for accounting, finance and/or tax purposes. Senders will also need to discharge their accounting, finance and tax obligations in respect of the NHS Transition and should obtain separate advice on these issues.

RECEIVER NOMINATIONS

6. Principles for nominating a Receiver or if there is more than one Receiver

6.1 The following principles apply in respect of nominating a Receiver for assets:

- assets will transfer to a Receiver who will be receiving the functions that the relevant asset supports **or** as otherwise required/nominated in accordance with policy. In the case of entities that will be “hosted”, the asset will be transferred to the “host” entity, that is a legal entity. A “hosted” entity is not a legal entity for the purposes of the transfer documentation and cannot hold legal title in an asset or liability;
- Land and buildings (and contracts and rights and liabilities relating to land and building) will transfer to the Receiver (in this case being NHS PS or a Provider) in accordance with principles set out in the guidance PCT Estate: Future ownership and management of estate in the ownership of Primary Care Trusts in England and the asset transfer lists approved by the Department;
- where more than one Receiver requires a particular asset in order to perform its statutory functions:
 - (a) a single Receiver should be nominated (in very limited circumstances provision can be made for certain assets to be shared and this arrangement will need to be included in the instructions for the relevant Transfer Scheme); and
 - (b) an agreement should be reached between the nominated Receiver and the other Receiver(s) as to how rights of access or use will be granted and this arrangement will need to be included in the instructions for the relevant Transfer Scheme.

6.2 It will be up to Receivers to agree who the nominated Receiver should be in these circumstances and detailing the instructions for the inclusion of

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this arrangement in the relevant Transfer Scheme. However, in these circumstances, Receivers must consult with each other and all other relevant stakeholders or third parties who may have an interest in the asset to agree the arrangements for which the asset should transfer to and any conditions attached to its transfer.

6.3 In terms of determining whom the appropriate Receiver is, consideration should be given to the following factors.

- 6.4 That the transfer to the nominated Receiver:
- meets the policy objectives on where the functions are to be transferred to **or** as otherwise required/nominated in accordance with policy;
 - minimises waste; and
 - is value for money.

6.5 Senders and Receivers should also note that section 301(3) of the 2012 Act enables a Transfer Scheme to impose conditions in respect of property transferred and section 301(4) of the 2012 Act enables a Transfer Schemes to make provision in respect of rights of “shared ownership” of property. Senders and Receivers will need to include in the instructions on the transfer documents where and what conditions will need to be attached to the transfers of property or whether property is to be shared.

6.6 The Department will publish guidance in respect of the transfer of claims and liabilities.

6.7 The Department will also share best practice as developed by SHA Transition Leads in respect of the transfer of IT Systems and Equipment.

6.8 The Department recommends that Senders and Receivers record the agreement between them of what assets and liabilities will transfer. It is envisaged that the Transfer Schemes will include more than one Receiver (refer to Annex 3 as an example of how the instructions will be populated).

6.9 A tool that the parties may use for governance purposes and as a record of what Senders and Receivers have agreed should transfer is included as Annex 4: **(Sample Transfer Schedule between Senders and Receivers)**. This document is not legally binding and will not effect the transfer of property or liabilities. It is intended to be a tool which Senders and Receivers can use for governance purposes to record the agreed list of property and liabilities that will transfer between each Sender and each Receiver. However, if this tool is used, for consistency, it should mirror what is included in the instructions for the Transfer Schemes in Annex 3. If this tool is not used, the information set out in Annex 3 still needs to be provided to enable the Transfer Schemes to be drafted.

DOCUMENTATION

7. Documents for the NHS Transition

7.1 Each step of the process outlined above will involve the creation of or reference to documentation. Each Sender and Receiver will need to complete the documents required to satisfy their statutory and internal governance arrangements such as, deeds of termination and release (to discharge third party liabilities) as well as resolutions and minutes of board meetings.

7.2 This Guidance only deals with the documents that will be required in order to draft the Transfer Schemes under the 2012 Act and Transfer Orders under the NHS Act.

7.3 Senders will need to determine whether or not additional legal documents will be required to transfer assets (for example, business transfer agreements) and/or discharge liabilities (such as deeds of termination and release). In exceptional circumstances a business transfer agreement may be required in circumstances where a third party is not listed in Schedule 22 of the 2012 Act as a nominated Receiver for the purposes of a Transfer Scheme or where a Transfer Order cannot be made in respect of them under the 2006 Act. However, in the majority of instances, the transfer of property, rights and liabilities will be covered by a Transfer Scheme or a Transfer Order.

7.4 A Transfer Order is an order of the Secretary of State under Schedule 4 to the NHS Act. It is a statutory instrument that deals with the transfers of staff, property and liabilities to certain NHS bodies. It must be consulted on and laid before Parliament 28 sitting days before it comes into force.

7.5 In some circumstances, provisions regarding transfer can also be included in establishment orders or abolition orders.

7.6 A Transfer Scheme is an instrument in writing made by the Secretary of State under sections 300 to 302 of the 2012 Act. It can deal with the transfers of staff, property and liabilities between those entities as specified in Schedules 22 and 23 to the 2012 Act but unlike Transfer Orders does not need to be laid before Parliament.

7.7 As at the date of this Guidance, it is anticipated that there will be two Transfer Schemes for each SHA and PCT – one for staff that are to transfer and one for property, assets and liabilities that transfer, including all clinical and non clinical contracts and agreements. However, it is possible that some elements of particular transfers may be included in other statutory instruments, such as, in the Establishment Orders of some of the SpHAs.

7.8 It is the Sender's responsibility to ensure that all of its assets and liabilities to transfer as a result of the NHS Transition are included in the appropriate transfer document instructions and that those instructions are accurate and complete.

Handover and Closedown Guidance

- 7.9 Senders and Receivers will be responsible for:
- completing schedules of assets and liabilities to be transferred and who they will be transferred to;
 - checking the consistency between the lists prepared for the Transfer Schemes and Transfer Orders, the lists between Senders and Receivers and those prepared for Handover and Closedown purposes; and
 - providing instructions that will be collated by the Department in order to draft the Transfer Schemes and Transfer Orders.

7.10 The **Transfer Schemes** must be in final form and ready for signature by a representative of the Secretary of State for Health before **28 February 2013**. **Transfer Order** documentation must be in final form and ready for signature by a representative of the Secretary of State for Health before **31 January 2013** when they will be laid in Parliament.¹¹

7.11 These dates are critical as each Sender and Receiver will need sufficient time after these dates and before 28 March 2013 to satisfy their own statutory and internal governance arrangements to effect the transfer of the assets and liabilities, for example, convening board meetings, circulating documents, notifying counterparties to contracts and other regulatory authorities.

7.12 Senders and Receivers should obtain their own legal advice to prepare all relevant legal documents and to ensure that they have satisfied their statutory and internal governance arrangements.

- 7.13 There are four annexes to this Guidance:
- Annex 1: (**Sample Transfer Scheme**), please note that this is for information only and individual Transfer Schemes will be drafted to reflect the nature of the property, rights and liabilities to transfer as set out in the instructions received from each Sender;
 - Annex 2: (**A Template List of Assets and Liabilities**) with commentary on how it may be used;
 - Annex 3: (**Template instructions**) with commentary as to how it is to be completed; and
 - Annex 4 (**Sample Transfer Schedule between Senders and Receivers**)

7.14 While these documents are **for information** they are intended as a guide to illustrate the type of provisions that may be included in Transfer Schemes or Transfer Orders and to encourage best practice and standardisation. They are not intended to be definitive of the form in which Transfer Schemes or Transfers Orders will be made. Senders and Receivers should tailor these documents to their specific requirements and the assets and liabilities that are to transfer.

¹¹ Property related sections must be signed off by 31 December 2012

STORAGE OF INSTRUCTIONS

8. SHA and PCT datasite for submitting Instructions for Transfer Schemes

8.1 The Department will establish a secure datasite for the submission of instructions for the drafting of the Transfer Schemes. This datasite will also be used as part of the Department's Handover and Closedown Programme for SHAs and PCTs.

8.2 Details of this site and how SHAs and PCTs will be granted access to it will be provided to SHA and PCT governance leads separately to this Guidance for confidentiality and data security purposes.

8.3 SHAs and PCTs must submit their instructions for the Transfer Schemes returns (based on the template set out in Annex 3) in accordance with the following timetable:

Date	Comments
15 November 2012	First set of data returns for instructions for Transfer Schemes
13 December 2012	Second set of data returns for instructions for Transfer Schemes
17 January 2013	Third set of data returns for instructions for Transfer Schemes
14 February 2013	Fourth set of data returns for instructions for Transfer Schemes
14 March 2013	Final set of data returns for instructions for Transfer Schemes No further amendments to be made to instructions

8.4 It is up to SHAs and PCTs to ensure that all instructions have been checked for consistency and accuracy. The Department will collate the instructions and forward them to DH Legal for the drafting of Transfer Schemes. SHAs and PCTs are not expected to liaise with DH Legal directly.

9. Contact details for further information

IPO Transition Team email: louise.troy@dh.gsi.gov.uk

Annex 1: (Template Transfer Scheme)

NATIONAL HEALTH SERVICE, ENGLAND

TRANSFER SCHEMES

The Health and Social Care Act 2012 [name of transferor]¹² (Transfer of Property, Rights and Liabilities) Scheme 2013

The Secretary of State for Health, in exercise of the powers conferred by section 300(2) and 301 of the Health and Social Care Act 2012, makes the following Scheme.

Citation, commencement and application

1.—(1) This Scheme may be cited as the Health and Social Care Act 2012 *[name of transferor]*¹³ (Transfer of Property, Rights and Liabilities) Scheme 2013.

(2) This Scheme applies in connection with the abolition of *[name of transferor]*¹⁴ and comes into effect at midnight on 31st March 2013.

Interpretation

2.—(1) In this Scheme—

“the transfer date” means 1 April 2013 *[The Commencement Order will deal with the conferring of the statutory powers set out in the Health and Social Care Act 2012 on CCGs and abolition of SHAs and PCTs. For accounting purposes as set out in Finance Guidance, the assets and liabilities must be in the accounts for SHAs and PCTs on 31 March 2013]*

“transferee” means *[define by reference to entries in the Property Schedule]*; and

“transferor” means *[name of transferor]*;

[These are examples. A full list of definitions will be inserted as required]

Transfer of property, rights and liabilities

3.—(1) Any **[property]** held by the transferor immediately before the transfer date which is identified in a schedule of property compiled by the transferor and annexed to this Scheme (“the Property Schedule”) is to transfer, on the transfer date, to the

¹² Guidance Note: As a general principle there will be one Transfer Scheme for each Transferor.

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

transferee identified in the Property Schedule in relation to the relevant property. ***[Refer to Annex 2 for how to identify property rights and liabilities]***

(2) [Specific provisions will be drafted for the transfer of rights and liabilities and will depend on the information completed in the Instructions set out in Annex 3].

Conditions of transfer on [a particular asset]

4. [Detailed provision will be included here for conditions included in the Instructions set out in Annex 3.]

Other conditions of transfer

5. [Detailed provision will be included here for conditions included in the Instructions set out in Annex 3.]

Supplementary provisions

Signed by authority of the Secretary of State for Health.

Date

Name
Member of the Senior Civil Service
Department of Health

Annex 2: (Template List of Assets and Liabilities)

The purpose of this document is to assist Senders and Receivers to conduct a due diligence of all of their assets and liabilities for governance purposes and to assist in preparing the instructions for the Transfer Schemes and Transfer Orders (refer to Annex 3).

Senders and Receivers may already be using similar tools already as part of their preparation for the NHS Transition, for example, for the transfer of property and estate, HR and Clinical Contracts.

The purpose of this document is to capture ALL OTHER assets and liabilities. The tools used in specific workstreams should continue to be used as the primary tool.

This document together with the specific workstream tools is also a useful tool for governance purposes as it creates an auditable record of the process engaged in by Senders in conducting their due diligence of assets and liabilities and recording decisions made as to how and to whom those assets and liabilities should be allocated. This is especially important for SHAs and PCTs which will cease on 1 April 2013.

The information contained in the columns marked with a “*” must be included in the Instructions for a Transfer Scheme.

If specific conditions apply to the transfer of an asset or liability, the information contained in the columns marked with a “#” should be included in the Instructions for a Transfer Scheme.

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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PROPERTY
[Refer to property transfer scheme schedules requested by David Flory planning for property and

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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*estate transfers]
[Refer to property transfer scheme schedules requested by David Flory planning for*

Eg, subtenant whether registered or unregistered (N.B., this will capture

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]# "hosted" entities)	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
<i>property and estate transfers]</i>								
IT HARDWARE <i>[potentially Refer to property transfer scheme</i>	Servers		May be owned by a third party and space provided to SHA/PCT under					

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
<i>schedules requested by David Flory planning for property and estate transfers]</i>	Computers, cables etc. [refer to IT asset		an outsourcing arrangement					

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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registers]
Telephones

PLANT AND EQUIPMENT
[Potentially refer to property transfer scheme

Office Furniture

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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schedules requested by David Flory planning for property and estate transfers][refer to asset registers or material

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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contracts if leased from and maintained by a third party]

Photocopiers etc.
Fittings etc.

MOTOR VEHICLES
[refer to asset

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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registers or material contracts if leased from and maintained by a third party]
FINANCE

Bank Account name, Bank Account

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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account number, sort code, branch address
Authorised signatories

Financing Agreements:
Loans where Sender is the

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
	Borrower Mortgages or other charges over assets Grant Funding details Charitable Donations hire purchase and leasing contracts							

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
	Financial Records and Accounts			HMRC, NAO and other regulatory bodies who may review records etc.				

TAX

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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INTELLECTUAL PROPERTY RIGHTS

Software
Licences from third parties used by the Sender
Software
Licences
(licensed by the

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
	Sender to third parties) Trade Marks (owned or licenced) Patents (owned or licenced) Copyright Domain name registration					Notification of registration bodies. Notification of registration bodies.		

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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details
Websites

MATERIAL CONTRACTS
[Refer to work done for Richard Dodds' team]
[Refer to property

Clinical commissioning contracts

Section 75 Agreements with

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
<i>transfer scheme schedules requested by David Flory planning for property and estate transfers [Potentially</i>	Local Authorities							
	Joint Ventures							

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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refer to property transfer scheme schedules requested by David Flory planning for property and estate

with public and/or private sector (NB, includes voluntary sector)

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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transfers

- Operating Agreements eg:
- Finance and administrative support services: Serco,

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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- NHS
- SBS,
- stationery suppliers etc.
- Contractors agreements;
- Manage

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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- ment consultancy and professional services
PR, advertising and communi

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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- cations
- Facilities management
- IT Systems, hardware, support and maintenance

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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nce if not covered by IT Hardware above (include contracts for telephony devices

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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- such as blackberry, ipads, smart phones etc).
- Website development etc.
- Other Contracts

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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Contracts that have expired where there is an ongoing obligation, for example to hold records/data, to make payments and so on

EMPLOYMENT

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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AND PENSIONS
[Refer to returns for HR Workstream]

Personnel file

Pensions file
Occupational,
Health and Safety
File

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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GOVERNANCE RECORDS

Minutes of Board meetings and associated papers
Establishment Orders and other statutory

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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DATA

instruments
Statutory registers
Other corporate records

Patient records
Activity costs / quality analysis
SUI's

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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Complaints
Market/suppliers
Public health

DISPUTES / LITIGATION / CLAIMS

Orders of a court or other regulatory body

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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which the Sender is bound to comply with actions or legal proceedings which are pending or threatened **against** the Sender

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
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Certificates of currency

**CONSENTS,
LICENCES,
PERMITS AND
APPROVALS**

Local Authority
Environmental
Agency (eg,

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Name of asset/liability [NB: This is the full legal description eg, registered title or as complete a description as possible]*	Type	Linked to which functions/powers to transfer [NB: Include here where an asset or liability overlaps with different functions]	Who is the registered legal owner? [NB: It is possible that assets or liabilities are shared and details of the sharing arrangements need to be included. This may also not be the SHA/PCT but a private body or other NHS body (such as an FT)]*	Third party legal rights or interests [NB: Purpose of including this column is to capture whether any third party rights need to be discharged prior to transfer / disposal. Include full legal names and contact details of third parties]#	Location and contact details of person responsible for it	How the asset/liability transfers - legal title - physically - restrictions Include here if the Receiver has an obligation to notify a third party, such as a regulatory body, of the transfer of the asset or liability.	Is the asset / liability to be transferred or disposed of, terminated or discharged	Nominated Receiver* If there is more than one Receiver: • Who are they; • How are rights to be granted
	pollution, hazardous waste) Other							

Annex 3: (Template instructions for a Transfer Scheme)

Instructions for the transfer of property, rights and liabilities for *[insert name of SHA/PCT/Sender]* under sections 300 and 301 of the Health and Social Care Act 2012

(1) Name of Transferor: ***[Insert full statutory name of the transferor by reference to the Establishment Order or Commencement Order]***

(2) Details of property, rights and liabilities to be transferred:

[Note: Senders should confirm whether any property, rights or liabilities have been or will be included in a separate instrument, particularly Establishment Orders, Abolition Orders or Transfer Orders. It is the responsibility of the Sender and its advisers to ensure that the instructions and lists attached to the instructions are accurate and complete.]

[The Property Transfer Scheme Schedule required by David Flory’s planning for property and estate transfer will form the basis for instructions in relation to land and buildings]

[For other property, assets and liabilities]

Column (1) <i>Property, rights and liabilities to be transferred</i>	Column (2) <i>Transferee</i>
1. <i>[Transferors to complete this column to identify specific assets and liabilities to be transferred as per Annex 2 above columns 1 and 2]</i>	1. <i>[Only one transferee can be nominated for the purposes of completing this column. Where more than one transferee is identified and the nominated transferees intend to “share” ownership pursuant to section 301(4) of the 2012 Act, specific instructions need to be given in respect of how ownership is to be shared. Refer to paragraph (4) below]</i>
Material Contracts	
2. All rights, liabilities and obligations in respect of the following material contracts between the Transferor and the counterparties listed below: <i>[Insert list of material contracts to transfer to nominated Transferee, for example, between Counterparty (1), Counterparty (2) dated [insert date] in respect of [insert description of goods or services]</i>	2. Receiver (1)
3. Sample instructions for “sweeping up” all material contracts not identified by specific Transferee?: All other rights, liabilities and obligations in any material contracts related to [insert	Receiver (1)

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

Column (1) <i>Property, rights and liabilities to be transferred</i>	Column (2) <i>Transferee</i>
function] of the Transferee not listed above.,	

(3) Instructions under Section 301(3) of the Health and Social Care Act 2012 (conditions attached to transfer)

Option 1: None. This means that all assets and liabilities in respect of a particular group or class of assets and liabilities identified in (2) above are all going to one Transferee.

Option 2: complete the following table:

Asset	Condition attached to transfer (both pre-existing conditions or new conditions to be created as part of the transfer)	Transferee
<i>Patient Records</i>	<i>[insert details of arrangement for access for purposes of defending clinical negligence claims]</i>	<i>Receiver (1) NHS Litigation Authority</i>
<i>Intellectual Property Right (for example software)</i>	<i>Perpetual, non-exclusive, [royalty-free] licence to [insert rights of use]</i>	<i>Receiver (2) Receiver (3)</i>
<i>Intellectual Property Right (for example software)</i>	<i>Perpetual, non-exclusive, licence to [insert rights of use] for annual licence fee of [£X]</i>	<i>Receiver (4) Receiver (5)</i>
<i>Intellectual Property Right (for example, trade mark registered in a jurisdiction other than England and Wales)</i>	<i>Transferee must register transfer with [insert name of registration body]</i>	<i>Receiver (6)</i>
<i>Material contracts</i>	<i>An electronic copy of material contracts listed in Table 1 above and all future amendments insofar as they relate to [insert description of function for Receiver (2)]</i>	<i>Receiver (2)</i>

(4) Instructions under Section 301(4) of the Health and Social Care Act 2012 (shared ownership of property)

Asset	Details of shared ownership	Transferee(s)
<i>Intellectual Property Right (for example software)</i>	<i>Asset owned in equal shares between transferees</i>	<i>Receiver (2) Receiver (3)</i>

(5) Instructions otherwise not covered above

The Health and Social Care Act 2012 [name of transferor]11F (Transfer of Property, Rights and Liabilities) Scheme 2013

[Include instructions to address specific issues regarding the nature of the property, rights and liabilities to be transferred that should be addressed which are not otherwise covered in the tables above.]

(6) Authorised Officer responsible for these instructions

Name:

Position: ***[For example, CEO, DoF or Chair]***

Contact details: ***[insert email address, phone number, including mobile phone number]***

Date:

Signature of Authorised Officer

Attach identifiable, dated and signed relevant document which certifies the appointment of the authorised officer to submit these instructions on behalf of the transferor and/or certified copy of board minute or other internal governance document that consents to the submission of the instructions and that the instructions are complete and accurate and include all of the property, assets and liabilities of the relevant transferor to be transferred under sections 300 to 302 of the Health and Social Care Act 2012.

[The purpose of requiring transferors to complete the statement above is to ensure that the appropriate governance processes have been followed by the transferor and, as SHAs and PCTs will be abolished on 1 April 2013, all assets have been transferred or disposed of and all liabilities have been transferred or discharged by 31 March 2013.]

Annex 4: (Sample Transfer Schedule between Senders and Receivers)

The Property and Liabilities schedule for [insert name of Sender] and [insert name of Receiver]

1. The Property and Liabilities identified in this Schedule are the property of **[insert name of Sender]** (the “**transferor**”) and have been identified as property which will transfer to **[insert name of Receiver]** (the “**transferee**”) on the effective date of the Transfer Scheme for **[insert name of Sender]** 2013.

2. In this Schedule:

[insert definitions]

3. The property of the transferor that will transfer to the transferee on the at the effective date are:

[insert or reference schedule to be attached as an appendix for Receiver based on information provided in Annex 3].

Signed on behalf of the transferor

[Insert name of Sender]

Signature:

Name:.....

Role:.....

[That is, Authorised Officer position within the Sender]

Date:

Signed on behalf of the transferee

[Insert name of Receiver]

Signature:

Name:.....

Role:.....

[That is, Authorised Officer position within the Receiver]

Date: