

*From Simon Burns MP Minister of State  
for Health Services*

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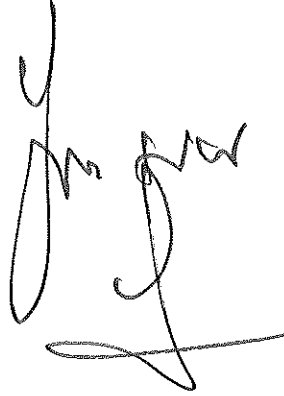
21 MAY 2012

**Gloucestershire Community Services**

Thank you for your letter of the 8<sup>th</sup> May to the Secretary of State Andrew Lansley, concerning the future provision of Gloucestershire community services. You will note my letter of 15<sup>th</sup> May advising you that the Department has agreed that NHS Gloucestershire could include in its new option appraisal making an application to establish an NHS Trust, as a precursor to a potential application for a Community Foundation Trust ('CFT').

You are correct that NHS Gloucestershire's current preference is ultimately to apply for CFT status, via an NHS Trust. Due to the terms of the legal agreement following the judicial review, they are obliged to seek potential expressions of interest to inform their option appraisal. This is not the same, however, as competitive tendering. It does not imply that NHS Gloucestershire would necessarily have to subsequently run an open competitive tender. Whether or not tendering will be necessary would depend on the outcome of their option appraisal. If, for example, their final preferred option, following appropriate engagement, is to seek the Department's agreement to establishing an NHS Trust (prior to potentially applying for CFT status) there would be no case for tendering. A number of PCTs have already pursued this option, setting a clear precedent, and there should be no grounds for a judicial review as the establishment of an NHS Trust and transfer of services and assets to it is clearly within the Department's vires. Such an 'administrative transfer' equally should not raise the risk of credible challenge under procurement law.

I do, however, fully recognise the need for patients, staff and local stakeholders to have confidence in the course that the PCT is following and avoid any further 'false starts'. I have therefore asked senior officials to continue to work closely with the PCT and NHS South of England to ensure that satisfactory progress is made towards securing a sustainable future for these key services.

A handwritten signature in black ink, appearing to read 'Simon Burns', with a long horizontal flourish at the bottom.

**SIMON BURNS MP**