

## **What can you do if your health services are being closed, changed, or treatments are being withdrawn?**

On substantial proposals, such as for example the transfer of services away from a hospital, your local NHS trust must consult with both:

- 1) The Local Authority Overview and Scrutiny Committee (OSC)
- 2) The wider community and in particular with groups that are hard to reach.

1) The OSC can refer objections to the Secretary of State (Patricia Hewitt) on two grounds:

- i) Inadequate consultation – for example not enough information or time has been allowed. The Secretary of State may require the NHS trust to carry out further consultation and to reconsider its proposal accordingly.
- ii) The proposals are not in the interests of the health service in the area. The Secretary of State may then decide herself to either approve or to oppose (most unlikely) the plans. Alternatively, if all other avenues have genuinely been exhausted, she may ask the Independent Reconfiguration Panel\* to advise on the matter.

2) Members of the public can make representations to the OSC but cannot refer their objections to the Secretary of State. However, they can seek a judicial review – i.e. challenge through the courts – usually on the basis of inadequate consultation.

Consultation with patients and the public must be carried out properly, i.e.

- i) be undertaken when plans are at a formative stage, before a final decision has been made
- ii) include sufficient reasons and information to allow for intelligent response
- iii) allow adequate time for intelligent consideration – at least 12 weeks
- iv) be taken into account when the final decision is made.

Individual patients can seek or lead a judicial review if they are directly affected or are likely to be denied treatment as a result of a proposal. Such patients would need to be eligible for legal aid, i.e. on benefits or income support. If the plans affect the wider community then legal action may require some financial support from community groups or unions, but usually this would not be more than a few thousand pounds.

Application to seek a judicial review must be made promptly i.e. within three months from the date when the grounds for complaint arose.

\* The Independent Reconfiguration Panel is an advisory non-departmental public body. It has a chair and members drawn equally from health professionals, health service managers and patients and citizens. The panel provides advice to ministers on proposals for NHS changes in England that have been contested locally and referred to the Secretary of State.