



Campaign guide

1. How to start campaigning?

Start by making sure that you have a good understanding of the proposals that you are challenging. Decide what you are trying to achieve. Most campaigns are run by people who have limited time and resources and yet, you can still be effective if you focus them well. This means targeting your efforts. It is useful to ask:

1. What are we campaigning for?
2. Who do we want to get our message across to?
3. Which groups and individuals are most likely to support us and will be useful in building the campaign?

Work on summarising your case in a concise way. If your message is clear then other people will be much more likely to understand and support your campaign.

TIP: *Start with a single project eg. by organising a letter writing campaign or a public meeting. If you have never done any campaigning before discuss your plans with someone who has.*

Starting a campaign can seem a large and overwhelming task but most people discover early on that by sharing the task and finding people with skills and time to help, you will give your campaign its own momentum. Also a campaign does not need to be large to be effective. Healthcare is an important issue for the community there are many ways to use organisations with established networks to help you.

Why campaign?

Our community needs people that understand the value our health service to get involved in protecting services and promoting the right approach. The situation is urgent as the new market driven approach is already having a negative impact on access to services. The NHS is making a radical move away from its traditional values. Both NHS staff and the public have a right to know what is happening. Although this task is becoming harder as in the last few years our health service has become less accountable. Your work in informing and involving others is crucial to safe guarding the future of NHS staff and of a comprehensive national health service.

The next 2 sections give you a checklist of things that you can do to help build the campaign, followed by a description of some of the campaigning techniques that have worked for campaigners in the past.

2. Campaign Checklist

1. Make sure you and/or your group has signed up to the campaign statement and you have supplied your contact details to the campaign.
2. Collect signatures for your petition.
3. Invite local groups and organisations to discuss and adopt a resolution supporting your campaign.
4. Circulate the campaign leaflets and briefing papers to interested groups and individuals in your area.
5. Write a letter to your local paper to raise awareness about NHS privatisation.
6. Contact your local trade union branch and other groups who might be able help you to campaign locally.
7. Hold a public meeting in your area.
8. Write to your MP asking them to raise the issue with ministers, or attend the MP's surgery in person (they will often take more notice of a personal approach than just a written one).
9. Encourage others to write to their MP, or to speak to the MP at their surgery.
10. Attend meetings of local NHS bodies and NHS Scrutiny Committees, not just to collect information but to challenge decision makers.
11. Make your campaigning efforts visible. Get to know your local media and try to think of ways to maintain their interest in your campaign.

3. Campaigning tools and techniques

There are many ways of organising your campaign and getting your message across. The techniques which follow are tried and tested. However, it is a good idea to think as creatively as possible, as this will help make your message stand out and get the attention and support it needs.

3.1 Write to the press

Letters sent to newspaper editors can be an effective way to raise the profile of an issue. The letters page is one of the most popular parts of a newspaper. Local councillors and MPs use it to pick up on local issues. Published letters can start a debate, which can sometimes develop into a full-scale news story. It is also a good first step in finding people who share your views, as they will often respond to your letter and may then want to become more involved.

3.2 Start a letter writing campaign

Encourage friends and colleagues to join you in writing letters. By targeting people like your local MP or councillors you will help to persuade them that they should be doing more to represent your concerns. Try drafting a model letter for others to adapt. This will ensure that all letters sent are putting across the same message and key facts, but encourage people to use their own experiences and style to make the letters distinct in character. Asking supporters to sign and send in copies of the same letter will not be as effective.

3.3 Write as a group

Presenting a letter signed by a group or a number of co signatories can be a good way to attract more attention for your issue. Certainly news editors will be more likely to promote you from the letters page into a news story. The connection between those that sign and the issue is important and will determine the level of interest from the media. For example it is easy to imagine the following headline attracting wide local news good coverage - "*100 health workers sign letter saying that patient care will get worse if NHS reorganisation goes ahead*". Health professionals do co sign such letters of concern but some may be wary of stating their opposition publicly. It can be a good idea to involve general practitioners because as independent contactors they can speak more freely. This becomes less of a problem as people perceive safety in numbers. It is a good idea to consult with colleagues about the content of a joint letter

TIP: *Present your joint letter as an open response to the consultation and press release it to the media.*

maximise the impact of your letter

- Make it clear what you are asking for.
- Use clear and direct questions. This encourages the respondent to address your specific concerns.
- Keep your letter short and to the point.
- Try to use clear examples where you can

3.5 Organise a public meeting

This is not as hard as you might think and can really help to galvanise support and motivate people into action.

What is the aim of your meeting?

To inform people about changes;
To find people who can support the campaign;
To show the size of support.

What are the practicalities?

Timing - give yourself enough time to organise the meeting, make it at a time that will be easy for others to attend. Check that your event does not clash with another competing issue. What is the best time for your campaign?

Venue - Size, accessibility, transport and car parking are important to consider. Does the venue have all the facilities you need, microphones, hearing loop? What impression does the venue give of the campaign, too swish or too down at heel?

TIP: *it is better to fill a smaller room than be swamped by empty chairs in a large arena.*

Speakers - Will your speakers help to attract an audience? Clearly if prominent local people are involved, like your MP, then that will help to spark interest and attendance. Make sure each speaker knows what issues they should address and how long they should speak for. Don't forget the human side, local NHS staff will be able to help explain to the meeting the impact upon local people of changes to the local health services. Be sensitive to the composition of the speakers' platform and how it will appear to your target audience. For example, it is generally better to have a mix of women and men on the platform. A good chair is essential to controlling the meeting and keeping it to the agenda and on time.

Publicity - Advance notice is essential. Target the audience you want and get other local organisations to help advertise the event. Make contact with the local paper - they may be willing to help advertise your event, perhaps through a story about your local NHS.

Action - Don't forget to end the meeting on the positive steps that the audience can take to support the campaign.

TIP: *organising an event with a partner can make each element easier as their contacts, funding and members will help to make it a success.*

3.6 Produce and distribute a leaflet

A leaflet is a simple and cost effective way to present your case and invite others to support you. Present the information in a straightforward and jargon free way making it

clear what the campaign is for and what supporters can do to help. Try and summarise your argument in a few short sentences, use snappy headlines and ensure the text makes sense and is easy to read. Bear in mind when you write the copy who will be reading it. If you are relying on the help of other organisations for distribution it might be worth checking the copy with them first.

If there are public meetings coming up, make sure you put the details on your leaflet. Include the name of the group publishing the leaflet, along with their contact details.

After you have proof read it, ask someone else to proof read it and then check it again. Simple grammar or spelling errors will put people off.

TIP: *If you can, get a designer or someone with experience to lay out the text and add some pictures or appropriate graphics. People are used to seeing good design and this will help to get them to read and absorb your copy. It will also save you time.*

How can you distribute your leaflet?

Ask other organisations to insert your leaflet in their mailings to members. This technique is very powerful as it gets someone else to do much of the work for you and saves on the cost of postage. It is worth making a target list of local organisations with their own mailing lists (see campaign partners table).

Set up a weekend stall in your town centre - this is a good way to make you campaign visible, collect signatures for your petition and hand out your leaflet.

Use email lists where you can, circulate either a link to a webpage containing the text of the leaflet or attach it as a PDF file.

3.7 Start a Petition

Petitions help to rally support – and help to identify your supporters. By collecting signatures in a public place you will help to raise local awareness around your issue. A shopping area on Saturday works well. A short leaflet to give out summing up your argument will help.

Are you a member of an email list? You could circulate petition text or a link to a website holding the petition. It is always worth considering whether you are creating wide scale annoyance or spam through mass email.

Place your petition in public areas or on a website for people to sign up online, or download the petition form so that they can collect their own signatures. The more people collecting signatures the faster your petition will expand.

Presenting your own petition

You can present your petition locally to the council or SHA. Try to turn it into an event that the media are likely to report. Alternatively you can present your petition to Parliament or a specific Government minister. This rarely leads to action by Parliament but is a useful means of gaining publicity. If you want to do this, the petition must be drawn up in a specific way. Particular wording is also required. Your local MP should also

be able to find out the correct wording through the Journal Office in the House of Commons by asking for the "Rules concerning Public Petitions." In recent years, internet petitions have become a new way of campaigning.

3.9 Publicity stunts

The best publicity undoubtedly comes through television coverage or through a picture in the press. But often journalists want something dynamic to film to go with their report. Publicity stunts supply this colour and movement and often help a story to get more air time and interest from a news editor. You don't have to dress as Batman and scale the queen's balcony, but finding a way to visually portray the campaign can be very effective. The Canadian health campaign used a huge Trojan horse to explain the insidious nature of their campaign issue. This produced media coverage in every region that it appeared. The more original, the more likely you will be to get attention. These events will only work if you make sure the media know what you are planning.

TIP: *It can be easier to achieve media coverage if you are providing something for the media to film on a day when you know they will be covering your issue e.g. before a key local announcement, meeting or Parliamentary vote.*

Lobby of Parliament/MP's surgery

If you are planning to lobby an MP in Parliament make sure he will be there on that day. Alternatively MPs pay particular notice to those people that lobby them at their surgery, usually held once a week in their local constituency.

TIP: *Why not organise for members of your campaign to visit councillors and the local MPs at their surgeries over a period of weeks to bring the issue to the forefront of their minds?*

An organised mass lobby, where a large amount of people lobby their respective MPs in Parliament, can help to give MPs the impression that an issue has really caught the public's imagination. Organising a mass lobby should be done through the Sergeant at Arms at Westminster (www.parliament.uk - 0207 2193000).

Holding a demonstration

These can be an excellent way to get publicity, especially if attended by a large number of people. Be prepared for other groups to attend. Also think about how others will perceive your action, and whether this will help or hinder your campaign.

The success or failure of a demonstration or lobby can depend on how many people turn up, so make sure it is well advertised and that the press publicises the event. Get a speaker to say a few words at the event to remind people why they are doing it.

If you can't get large numbers make it colourful or use a visual gimmick to sell it to the media. A good picture opportunity can give you prominent media coverage. The media response to your demonstration is very important. Send out a press release before the event to make sure that the press know about it and can send someone. Journalists will almost certainly want to talk to a representative of the campaign, so decide in advance who is going to speak and what they will say.

Demonstrations have to meet certain legal requirements, so make sure you are aware of these.

Direct action

This is a campaigning method where the people involved take action that has a direct impact on the situation. For example, staging a sit-in to prevent your day centre shutting, boycotting goods, or lying down in the road to stop traffic.

Direct action may involve breaking the law. If you are in any doubt, you should seek legal advice before taking direct action. Although direct action can be very successful in raising public awareness, it runs the risk of alienating potential supporters. Some people may sympathise with the cause, but might be unwilling to support a campaign using these tactics, especially if they are breaking the law.

If you do want to undertake direct action, take legal advice and think through the implications carefully. Make sure that everybody who takes part agrees with the action and knows of any risks they may be taking.

4. Who should I contact about the campaign?

The only limits here are your time, money and energy. The letters, emails and phone calls involved will absorb all three. It helps to be focused and to prioritise your approach. Produce a list of people and organisations to contact. This is the first step in building a network of contacts that will be invaluable as your campaign develops.

TIP: *At the outset of your campaign start an email list and add new contacts to it so that you can send them a short update and keep them in touch with the campaign.*

One of the key aspects is getting a team of people who share your concerns to help you and not to try and do everything yourself. In the first instance you should be clear about why you are contacting potential team members. You can ask their advice or for their views on the proposed changes. You could request that they debate a resolution or consider signing a joint letter to publicly support your concerns. You should think carefully about this and make your request appropriate to the organisation.

TIP: *even if an organisation cannot support you publicly ask them if they will help you in other ways e.g. send out your literature to their members,*

Contacts list

Your MP

local journalists Good relationships here will help to share information and to develop stories with your involvement.

overview and scrutiny committee a group of local councillors given statutory powers to scrutinise the NHS

religious leaders

community groups There is a wide network of pensioner groups who are usually very active on health and social care issues

social clubs

carers' groups Their support networks are a good way to pass out information

disability charities

local charities

local councillors

NHS staff

Union branches

Trades council

local GPs

You can get a list from your PCT and survey them for their view of the impact of the reforms

local political parties

local academics

Patients' Forums

students union

try and bring all ages into the debate

Contacting stakeholders

Stakeholders are defined as those groups and organisations having an interest in the outcome or future of an issue or organisation. We are all stakeholders in the NHS, although some groups have developed to represent or cater for the specific needs of some patients and users. Many of these organisations will be familiar and have a national profile. Many have local or regional branches giving you the opportunity to involve them in your campaign. How will this help?

1. Their users/clients and members may have direct experience that will help to personalise your campaign.
2. They are used to promoting their own issues and concerns and could be a good source of advice, contacts and ideas
3. You may be able to get them to distribute your material through their network

Where can I find a list of local charities?

The phone book is much less thumbed than it used to be, but remains the most readily available list of charities and user groups in your area. Most areas have some form of voluntary sector forum or an umbrella group that represents their needs that can usually be contacted through your local council.

Local stakeholders near you?

Alzheimers Society is the UK's leading care and research charity for people with dementia and their carers. Dementia affects one in 20 people over the age of 65 and one in five over the age of 80.

National Pensioners' Convention - campaigning voice of Britain's pensioners, with a membership of one million older people.

Arthritis Care - represents 8 million people with arthritis - has 60,000 members but represents the whole community.

ACO - ACO is a network of over 200 charities and benevolent funds helping individuals in need - many of whom are older people.

Action on Elder Abuse - works with older people and groups to identify needs and strive, through research, campaigning and fundraising, to develop practical solutions.

Age Concern England - Age Concern cares about all older people and finds effective ways to make later life fulfilling and enjoyable. Nationally, Age Concern campaigns on ageing issues, undertakes research, provides information and advice and offers a wide range of training. Locally, Age Concern provides community-based services such as lunch clubs, day centres and home visiting.

Carers UK is an organisation for carers, run by carers. It provides information and advice to more than 20,000 carers and professionals annually and campaigns for changes which will improve carers' lives.

Leonard Cheshire is one of the largest charity providers of services for disabled people in the UK. 140 services support over 14,000 disabled people, offering flexible services to meet a wide range of needs.

MENCAP - campaigning and providing services for people with a learning disability and their families and carers.

Patients' Association - listening to patients; speaking up for change.

RADAR - is a national disability network, campaigning and lobbying for improved rights and services for all disabled people.

Relatives and Residents Association.

VOICES - a network of 50 charities providing a range of care services for older people

5. How can your MP help your campaign?

One of the simplest things an MP can do for you is to write a letter to a government minister. An MP should get a non-standard response, directly from the minister. The MP may not agree with your point of view but is obliged to write to the relevant minister outlining your concerns and asking for a reply. The MP will then forward this reply to you.

Other actions that MPs can take include signing up to a Parliamentary motion showing support for a particular issue, asking a specific question in Parliament, or requesting a debate in Parliament. In general the support of your MP can help to 'open doors' to progress your campaign

If you are holding an event invite your MP along. Their name, alongside other prominent local people, at the head of a petition may encourage others to sign and their involvement in your campaign may help to get local press interested. But be careful not to be too closely aligned to one political party if you are worried about appealing to the widest possible audience.

Is it worth keeping in touch with my MP? Yes. The more MPs hear about an issue from their constituents, the more likely they are to take action.

Do I need to be an expert? No, MPs need to keep on top of a wide range of issues. Often you will know more about a particular issue than your MP. And your MP may well be grateful for any information you can provide.

Does it matter which party my MP belongs to? No. The party in power formulates current government policy, but all MPs have influence that they can use in Parliament or in the government.

What if my MP shows no interest in my concerns?

Even if your MP does not immediately appear to be interested, it's essential for you to keep raising your concerns. It may take time to see results, but it is worth persisting. Ultimately it is always your MP's responsibility to pass on the issues you raise, whatever their own priorities.

MPs may well take up your case as an individual or group if you have already been in touch with other agencies and have not had a satisfactory result. They can contact the agencies and take matters up with them directly. They will be more likely to take up a case for you if you are contacting them as a "last resort" and can show that you have already tried to sort out the matter yourself, but have hit a dead end.

MPs are also very useful if you are contacting the media. If your local MP is involved in an issue, you are more likely to get media interest in your campaign, which will mean more publicity. Photocalls with your MP are a particularly good way of gaining media interest. You can also ask for your MP's comments on an issue before you present your story to the press, television or radio. The media will be more likely to seek the opinion

of the MP when they write the story. This will get the story more publicity and also make sure the MP states their view publicly.

If your MP sees a link between your issue and a wider problem, they will be more likely to take it up in Westminster. It is a good idea to look for ways in which your issue might be part of the wider political picture. A good MP should do what they can, both locally and nationally, to support your case, and should be able to give you an idea of how they can help you.

How to contact your MP

Remember that it is your MP's job to represent you. It doesn't matter whether or not you voted for them. If you don't know who your MP is, you can find out from the local library or Citizens Advice Bureau, or you can contact the electoral registration office at your local town hall. Alternatively you can consult the website www.parliament.co.uk. You can write to your MP or go to see them. You should always write first. Most MPs hold a "surgery" in their constituency, where you can see them personally. It is usually held once a week or once a month. Details of the surgery are often advertised in local newspapers, or you can try asking at your local library. Alternatively, you can contact them through their office at the House of Commons. Address your letter as follows:

Name of MP
House of Commons
London
SW1A 0AA

You can also telephone your MP's office there. The number is:
020 7219 3000.

Meeting your MP

You can meet your MP at their surgery, or you can ask them to attend a more formal meeting with a group of you to discuss issues. This gives them a bit of information about your campaign and means they will have the time to find out more before you meet, so you will be able to have a more productive discussion. Keep your letter short and to the point - preferably about one side of A4. Follow your letter with a telephone call to arrange a meeting.

When you meet your MP, be clear about what you want to say and what you want them to do. Bring your facts and show clearly why you need what you are asking for. Include somebody in the group who has personal experience of the issues you are talking about, so they can explain how they have been affected. If it is relevant, point out how many people in the constituency you represent, or how many people are affected by your issue.

Everybody has a right to visit their MP at the House of Commons and to ask to speak to them about their concerns. MPs have to make every effort to meet constituents when they do this. Making the effort to lobby your MP this way will show them you think the issue is really important. Mass lobbies of Parliament are a good way of letting MPs know how strongly people feel. Lots of people attending a lobby at the House of Commons

can attract media attention, especially if the people attending represent different groups of people. Mass lobbies are usually organised by local or national pressure groups.

The advantages and disadvantages of a lobby of Parliament are very similar to a lobby of your local council. There are rules concerning lobbies of Parliament, so make sure you are aware of these. For parliamentary lobbies, you will need to contact the House of Commons' Sergeant at Arms. If you are expecting a large number of people, you should also contact the police.

6. Holding your local NHS to account

Staying in touch with what decisions are being made about your local NHS is crucial. You can track these through the meetings and minutes of your local NHS bodies. Traditionally their meetings are open to the public but are poorly attended, speaking rights vary and are usually at the discretion of the chair. NHS bodies are obliged to enter into consultation over major strategic changes. If you are in regular contact with these bodies you will find out about this process and the associated meetings and be able to encourage others to attend too.

Ask Zena: At 85 years old and as someone who has been campaigning and scrutinising her local NHS for over 40 years Zena Bullmore knows many of the tricks to holding your local NHS to account. Below is some of the advice she offered us.

Which meeting can I attend?

All board meetings are usually held in public although the chair will organise closed sessions for parts of the agenda that are regarded as commercially sensitive.

When are meetings held, and how do I find out?

Often meeting dates for the whole year are timetabled and publicly available. These are available by ringing your local PCT/SHA or hospital trust or from their websites.

Can I speak and when?

Arrangements vary and are generally at the discretion of the chair. but usually they allow questions at the end of each agenda item. Otherwise you have to wait until the end of the agenda. Questions can be tabled in advance which may be useful if you are asking a technical detailed question, however the element of surprise can often be useful in scrutinising the work of NHS bodies.

Remember you will often be required to ask questions and not simply make statements of opinion. Don't be put off, watch Prime Minister's question time for a master class in turning a statement into a question.

What do I next?

Get the minutes of the meeting either from the website or ask for them to be sent by post. Check that there are no omissions or inaccuracies from the part of the agenda that you are interested in

How can I publicise what happens at these meetings?

Try inviting a local journalist along. Often they will be interested especially if you give them the background they need. This can help you to build up a relationship with local reporters who can be useful in publicising and building your campaign.

How will PCT mergers affect our ability to scrutinise?

From a practical point of view meetings will be moved across a wider area and therefore be much harder to get to. So even fewer will attend and there will be less public scrutiny at these meetings.

Primary Care Trusts (PCTs) are locally organised bodies which, together, are responsible for around 75% of the allocated NHS budget. They work with local authorities and other agencies that provide health and social care locally to make sure that the local community's needs are being met. Areas of responsibility include GP practices, dental surgeries and pharmacies. They are therefore ideally placed to tell you about the condition of local services, and current developments within the NHS in your area.

To identify your local PCT call NHS Direct on 0845 4647 or visit the NHS website at <http://www.nhs.uk/England/AuthoritiesTrusts/Pct/townSearch.aspx>, where you will then be directed to the PCT's website (under the General Contact heading on the right hand side bar). Whether you speak to NHS Direct or visit your PCT's website, contact details of relevant individuals within the PCT should be easily available.

You should be able to find information (either on the PCT website or through NHS Direct) about board meetings - when and where they are held, whether they are open to the public, minutes of previous meetings and agendas of forthcoming meetings. It is possible that some information, e.g. forthcoming agendas, is not immediately accessible via the PCT website, and might need to be requested from the board secretary. Also, if you have a question which does not relate to a specific item on the agenda of the particular board meeting, you might be required to submit this in writing in advance. You should therefore check the procedures of your PCT.

Strategic Health Authorities (SHAs) manage the local NHS on behalf of the Secretary of State, and are tasked with developing plans for improving health services; ensuring the high quality and performance of local services; increasing capacity; and ensuring that national priorities, e.g. programmes for improving cancer services, are integrated into local health service plans.

As with PCTs, you can identify your SHA by calling NHS Direct on 0845 4647 or by visiting the NHS website (<http://www.nhs.uk/england/authoritiestrusts/sha/default.aspx>). On the NHS website, you can find your local SHA website in a similar way to that used to locate your PCT website.

Copies of agendas, minutes and other board papers should all be available on the SHA website or via NHS Direct. However, some documents might be needed to be requested from the board secretary, so some research is advisable preparatory to attending any public board meetings.

7. How can resolutions help the campaign?

Many local groups and organisations meet to discuss local issues that effect them. you could write to them to ask whether they will look at your issue of concern and suggest that they hold a meeting to discuss a specific NHS resolution. This will help to focus the debate and, if they support you, help to link them into to your campaign.

Tabling a resolution gives you the opportunity to explain the campaign to people who may not have heard about it yet. Having resolutions passed by a wide range of organisations and groups will demonstrate the breadth and depth of support for your concerns as you can advertise their support. A resolution can also specify ways in which organisations can support the campaign.

Many different organisations can pass resolutions including:

- trade-union branches
- branches of political parties
- community groups.
- local church councils
- women's groups - for example, a local Women's Institute or Mothers' Union group
- local authorities - town or county councils
- students' unions

Think about the different sorts of organisations and groups in your area.

Where do I start?

Find out the date of the next meeting and check whether there is a particular format to follow to table a resolution. If you are approaching your local authority, there is usually a legal officer or a constitutional support officer who can explain the process. The resolution, or motion, will probably need to be tabled by a councillor rather than a member of the public, so find out whether any councillors are sympathetic to the campaign.

Passing a resolution is not an end in itself. The real impact will depend on how you follow it up. Above all make sure the action points in the resolution are actually carried out. Make sure that people hear about it - tell your local newspaper, parish magazine or organisation's newsletter about the resolution. Take a photo at the meeting where the resolution is passed or organise a photo stunt afterwards - this could accompany any articles that are published.

Sample Resolution

(Name of group/union/council) notes that:

1. The Government is intent on creating an NHS market and outsourcing work to the private healthcare sector.
2. So far, outsourcing contracts to the private sector has raised costs and yet NHS trusts have been prevented from bidding for some of this work

3. There has been widespread criticism including that from NHS staff who have highlighted the drain on NHS resources and the impact on crucial areas such as NHS staff training.

We believe

1. The current policy goes even further than the "internal market" policy of the previous government.
2. The opening of the NHS to competition with private healthcare providers will force different trusts and other sectors of the NHS to act in competition with each other rather than sharing information and resources in a collaborating network.
3. Greater inequalities and problems with access in healthcare will appear, as market driven incentives undermine needs based healthcare.

We resolve to:

Support the campaign by:

1. Writing to our local MPs to urge them to add their support
2. Encouraging our members/congregation (adapt as appropriate) to take part in campaign actions and events in support of a publicly owned, publicly resourced and publicly accountable NHS.
3. Write to our national organisation/board/council (adapt as appropriate) to tell them about this resolution, and urge them to pass a similar motion.

8. How can you use the law to help with your campaign?

Your local NHS must consult with the public over significant changes to its services. How and when this is done is outlined by guidelines produced by the government. In some cases it is possible to take legal action to prevent planned changes from going ahead, for instance if your local NHS bodies have not consulted properly. Richard Stein is a solicitor and works for Leigh Day and co, a firm that specialises in this area. Below is his summary of what can be done using the law, when and how.

Contact: Richard Stein

Leigh Day & Co

Solicitors

020 7650 1240

rstein@leighday.co.uk

Patients' legal challenges to NHS cuts/closures

1. Before NHS bodies can make decisions affecting/varying the provision of health services they must:
 - consult the overview and scrutiny committee of the local authority (*Reg 4 Local Authority (Overview & Scrutiny Committees Health Scrutiny Functions) Regulations 2002*) and
 - involve and consult service users and potential service users: (*s11(1) Health & Social Care Act 2001*)

Consultation with overview & scrutiny committees

- Required when there is under consideration a proposal for a substantial development of the local health service or a substantial variation of local provision. Substantial is not defined.
- This consultation must take place while the proposals are still in a formative stage, to provide an opportunity for representations to be made and for them to be taken into account before a final decision is reached.
- The only circumstances in which such consultation is not required is where the decision has to be taken without time for consultation 'because of a risk to safety or welfare of patients or staff' – importantly, not for financial reasons.
- Where it is dissatisfied, the overview & scrutiny committee has powers: to request further information/require an officer from the PCT/Trust to attend its meeting; to report to the Secretary of State asking for further consultation to be ordered or to request that the Secretary of State overrules the decision of the local NHS body.
- In cases under very similar earlier rules requiring consultation with CHCs, where consultation was not carried out, decisions to close Community Hospitals (eg in North Devon) were reversed by the courts.

2. Public involvement and consultation

- Relatively new and untested duty on all health bodies (health authorities/PCTs/NHS Trusts) to involve/consult with health service users (and potential users) either directly or through representatives in the: planning of service provision; development/consideration of proposals to change service provision; decision making regarding the operation of those services.
- DoH Guidance (Strengthening Accountability – Involving Patients & the Public) states that:
 - *'Section 11 places a wider duty to involve and consult patients and the public: not just when major change is proposed, but in the ongoing planning of services; not just when considering a proposal but in developing that proposal; and in decisions that may affect the operations of services.'*
- This extended duty to consult – not just on a final proposal - may provide an important extra dimension, where it can be shown that the proposal has not been discussed with 'stakeholders' during its formulation. Confirmed by Minister, Lord Warner [HSJ 3 November 2005). The weight the courts will give to this duty has not yet been tested.

3. Cabinet Office Code of Practice on Consultation

Six consultation criteria and code – binding on government departments and agencies – except in exceptional circumstances: *Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.*

Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses

Ensure that your consultation is clear, concise and widely accessible.

Give feedback regarding the responses received and how the consultation process influenced the policy.

Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.

Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

What to do if they decide to make major changes without consulting?

- Find patients affected by the service changes who would be willing to take legal action. If they are in receipt of any means tested social security benefits such as income support, pension guarantee credit, family credit, housing benefit or council tax benefit they are likely to be eligible for Legal Aid (now called Public Funding).
- Collect all of the available documentation available from the relevant NHS bodies (reports, public consultation documents, press releases, press cuttings, correspondence etc).

- Obtain legal advice/help to write a letter before claim to the relevant NHS bodies reminding them of their duties to consult before making substantial changes to health services, threatening judicial review if they do not agree to reverse the decision.
 - **Do not delay!** Cases must be brought promptly (within weeks of the decision being made)
 - Once a lawyer's letter has been received in cases where no real consultation has been carried out the decisions are usually put on hold pending consultation. If not, commencing legal proceedings will need to be considered immediately.
4. What is involved in bringing a judicial review?
- The case will be heard in the High Court in London (or Cardiff).
 - There is no oral evidence so the Claimant does not have to go to court. He or she can play as large or small a part as he or she wants to.
 - If the closure is imminent proceedings can move very quickly, suspending a decision in a matter of days or a few weeks. Otherwise it can take up to a year.
5. Carry on campaigning!
- A judicial review about the lack of consultation will only delay a closure decision. To prevent it the political argument needs to be won. It must become too difficult for the PCT/Trust to continue with the closure.
 - In the right case – where a case can be made out that the human rights of patients will be breached by a closure decision – a substantive challenge to the decision itself may be attempted. This will be difficult.