

Challenging cuts to mental health and social care services

Sometimes local authorities or the NHS make cuts or closures to mental health services. It is possible for you to challenge this. This information suggests ways you can do this. This information is for people who are 18 or over and affected by mental illness in England. It is also for their loved ones and carers and anyone interested in this subject.

Key Points.

- Sometimes the NHS or the local authority make cuts to local services.
- You can challenge these cuts.
- Speaking to service managers, the media, social media or your MP can be the quickest and cheapest way to challenge decisions.
- There may be a public consultation before services are cut. A consultation tells the public about the proposals and asks for their views.
- If there is a consultation, you should be given enough time to respond to it.
- You may be able to apply for judicial review if the local authority or NHS acts unlawfully. Or does not do a consultation when they should have.
- If you want to request a judicial review, it is best to get a solicitor. You might get the fees paid by Legal Aid. If not, you might have to pay the fees yourself.

This factsheet covers:

1. [Why do some mental health services get cut?](#)
2. [What will happen if I am using the service?](#)
3. [How can I challenge cuts or closures?](#)
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1. Why do some mental health services get cut?

What is NHS policy on funding services?

The **NHS Constitution** has principles on how the NHS should be run. Principle 6 says:

“It is committed to providing the most effective, fair, and sustainable use of finite resources. Public funds for healthcare will be devoted solely to the benefit of the people that the NHS serves.”¹

Because of this the NHS must review its services regularly. Sometimes services no longer fit with the NHS plans or budgets.

Integrated Care Boards (ICB) and local authorities decide which services they will offer in your local area.^{2,3}

The people who make these decisions are called commissioners. If commissioners make cuts, they will sometimes close services and replace them with a cheaper alternative.

You can read the **NHS Constitution** here:

www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england

2. What will happen if I am using the service?

It is not possible to say exactly what will happen to your mental health care if the service is due to be cut or closed. But the NHS and the local authority have a duty of care to signpost you to alternative services and support.

What will happen if I am using an NHS service?

An NHS service might be cut or closed meaning they cannot support you anymore. They should follow their discharge policy.

You can ask them how you will get help for your mental health in the future.

What will happen if I am using a social care service?

You might receive social care. Your local authority has a legal obligation under The Care Act to meet any eligible needs that you have.⁴

A service you use to meet your needs might close or be cut because of financial issues. If all your needs are no longer met, the local authority need to ensure another service meets your needs.⁵

You can find more information about ‘**Social care - Care and support planning under the Care Act 2014**’ at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

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3. How can I challenge cuts or closures?

There are several things you can try. Try not to give up hope if one does not work as a different one might.

How can I contact the service provider directly?

A good way to start challenging cuts is to contact the managers who run the service.

You can try to talk to them in person or over the phone. Or you can email them or send them a letter.

The managers may also be against the cuts and may want to help you or put you in touch with other people who feel the same.

They might want to hear your views, and the views of others. This is so they can use these to challenge commissioners.

What are patient participation groups?

Patients must be involved in the commissioning process.⁶ The commissioning process means what services are provided in your local area.

You can join a patient participation group (PPG) at your GP’s surgery, which every surgery must have.^{7,8}

This may give you access to the Integrated Care Board (ICB) and an input in the commissioning process.

ICBs decide which NHS services will be provided in your local area.⁹

What is campaigning?

Campaigning is trying to reach a goal by gaining support for an issue you believe in.

If you decide that you want to campaign, it is important to do some background work. You need to make sure that you have evidence to back up what you say. There is information on how to get evidence in [Section 4](#) of this factsheet.

There is information in this Rethink Mental Illness’ guide about starting your own campaign: www.rethink.org/media/2114/rethink-mental-illness-take-action-guide.pdf

Also, you can find information about Rethink Mental Illness’ current campaigns here: www.rethink.org/campaigns-and-policy/campaign-with-us

There may be a local service user group or NHS patient campaigning group in your area. If there is, they may already be campaigning on the issue. Or they may be able to support you with your campaign.

It can help if you campaign with others who have the same views as you. This can give you energy and hope, as campaigning alone can be tiring.

Think about how you can best balance campaigning with your mental health needs.

What is a public consultation?

A consultation tells the public about proposed changes and asks for their views. The NHS should only make significant cuts if they consult the public first.¹⁰

The information about the consultation will tell you how you can provide your views and feedback. This could be by an online survey, email, or letter.

They should give you enough time and information to provide your views and feedback.¹¹

There is more information about consultations in [Section 6](#) of this factsheet.

Who are Healthwatch?

Healthwatch find out what matters to people who use NHS and social services. They help make sure people's views shape these services.¹²

Local Healthwatch services are there to find out what people like about services, and what could be improved. They share these views with those who can make change happen.¹³

You can contact your local Healthwatch to tell them about your views on cuts to services. They may be forwarded to the national Healthwatch service.

Your local Healthwatch has a seat on your local Health and Wellbeing Board.¹⁴ This means your local Healthwatch can challenge clinical commissioning decisions.

You can find your local Healthwatch here: www.healthwatch.co.uk/find-local-healthwatch

What are Health and Wellbeing Boards (HWB)?

Health and Wellbeing Boards are a partnership between the NHS, public health and local government.

They have a legal duty to produce a joint local health and wellbeing strategy for their local population. They do this with what is known as your local Integrated Care System.¹⁵

The members of a local HWB should include:¹⁶

- senior health and social care managers,
- someone from the local Healthwatch,
- someone from the Integrated Care Board (ICB), and
- at least one councillor.

HWBs have the right to challenge the ICB's decisions to cut services.

You can speak to your local councillor or MP about your concerns. They could pass on your concerns to the HWB.

You can find out who your local MP is by using this link:
<https://members.parliament.uk/members/commons>

You can find out who your local councillors are by using this link:
www.writetothem.com

What is a judicial review?

A judicial review is a type of legal case. It means that a judge decides whether a government body has acted legally.¹⁷

You might have tried all the steps above and feel that they have not worked. You can think about asking for a judicial review.

There is more information about judicial review in [Section 7](#) of this factsheet.

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4. How can I get evidence for a campaign?

You might want to start your own campaign about cuts or closures of local services. You will need to gather evidence.

Evidence will help you to show the impact the proposed cuts or closures will have on local people.

Like, the local authority or NHS may think they are saving money by cutting a service. While the cut might save money in the short term, it could cost them more in the long term.

People may have to use crisis services more often if the service is no longer there to keep them well. Any evidence that the service stops people from using crisis or hospital services may be helpful.

Think about getting the following information as evidence for your campaign.

- The benefits the service has for people.
- What will happen if people cannot use it anymore.
- Information about the financial effects of the cuts. How does the service save money?

You could get this from different sources, including:

- surveys,
- evidence from focus groups, and
- case studies.

What is a service evaluation?

A service evaluation says how a service has been performing. They are written by organisations that inspect or audit the service.

The service might have evaluations that it is willing to share. These may have useful information you can use in your campaign.

You may be able to get copies of the service evaluation from the service or your local Integrated Care Board (ICB).

How can I do a survey?

Surveys can be a quick way to get evidence from a large group of people.

You can send out surveys online or by post. But online surveys tend to reach a wider audience and are quicker and cheaper to do.

The more people you get to do the survey, the better. If you keep the survey short more people are likely to complete it.

There are websites which you can use to make online surveys such as: www.surveymonkey.com.

You can get useful tips about what makes a good online survey here: <https://uk.surveymonkey.com/curiosity/10-online-survey-tips>

What are focus groups?

A focus group is a way to gather a small group of people to discuss a topic that affects them, such as NHS cuts.

You could arrange a focus group in your local area to interview people affected by the proposed closures or cuts.

Focus groups work best when the groups are small, ideally less than 10 people at a time.

For useful tips on how to run a focus group, Citizens Advice provide a free guide here:

www.citizensadvice.org.uk/Global/CitizensAdvice/Equalities/How%20to%20run%20focus%20groups%20guide.pdf

What are case studies?

It can be useful to share personal stories of people who have used the service that is at risk.

You can ask them about the impact this service has had on their lives. You can also ask them to think about how their life will be different without being able to use the service.

If you want to share someone's case study, make sure that you get the person's agreement first.

If the person would prefer not to give their name, you could change it when you write the story.

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5. How can I raise awareness about my campaign?

It can help to get other people or groups to support your campaign. This could help to make your argument stronger.

You can share information about your campaign through social networking sites.

How can I write a 'brief'?

If you want other people to get involved in your campaign, you could write a brief.

A brief helps to provide a summary of what your campaign is about. It sets out your argument and tells other people how they can help.

When writing a brief, you can include:

- what will change if the cuts happen,
- how people will be affected by the change,
- what evidence you have found,
- how people can take part in the campaign, and
- how people can contact you.

When you show your findings it is best to be accurate and honest.

Keep people's information secret if they prefer this. You can do this by removing names and other identifying information.

How can I contact my MP?

You can contact your MP to tell them about your concerns. They may support your campaign or write to services on your behalf.

How can I find out who my MP is?

You can search to see who your local MP is at www.parliament.uk/mps-lords-and-offices/mps

Or contact the **House of Commons Information Office**. Their details can be found in the [Useful contacts](#) section at the end of this factsheet.

How can I contact my MP?

There are different ways you can contact your MP. You could try the following.

- **Use an online template.** You can find one here: www.writetothem.com.
- **Send an email.** You can share it with other people who support you if you want to.
- **Meet your MP in person at a 'surgery'.** All MPs hold surgeries where people in their constituency can meet them face-to-face to discuss issues. You can search online to find out when your MP holds their surgeries. Or contact them and ask.
- **Write a letter.** Their address will be: [Your MP's name], House of Commons, London, SW1A 0AA.

How can I use the media?

You could contact local newspapers, radio, or television. That is to see if they are interested in running a story on the planned cuts.

The campaign might have a lot of local support or involves lots of local people. Local media are more likely to be interested.

They are also likely to want to speak to someone who is part of the campaign. They may ask you to do an interview.

How can I use social networking sites?

Social networking sites are a good way of making people aware of the proposed cuts.

You can use social media to contact campaigners and groups, who can help to publicise your cause. Social media can be an effective way to organise campaigns and actions.

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6. Should there be a consultation before a service is closed or cut?

What is a consultation?

A consultation tells the public what the local authority or NHS is planning. It asks people to put their views forward.

The law says that the local authority or NHS should consult the public if they are making a significant change.¹⁸

Once a local authority or the NHS decides to consult the public, they should:¹⁹

- consult the public in good time, so they can look at responses before making the final decision,
- give you enough information so you can respond in an informed way,
- give you enough time to respond, and
- think about all the responses.

When does there have to be a consultation?

You should expect your local authority or NHS bodies to consult local people if:²⁰

- the law says they must,
- they promised to,
- it would be unfair if they did not consult, or
- the changes will have a serious impact on people.

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7. What is a judicial review?²¹

A judicial review is a type of court process. At a hearing a judge will decide if a public body has followed the law when making a decision or taking an action.

Judicial review focuses on:

- whether the law has been correctly applied, and
- if the right procedures have been followed.

It does not decide if the decision is right or wrong.

A local authority or the NHS might not have done a proper consultation before cutting a service. If this is the case, judicial review is an option you can use.

Where do I start?

The process can be complicated, and you must act quickly. You only have **3 months** from the start of the decision you are challenging to apply for judicial review.

If you can, you should get advice from a solicitor who specialises in 'public law'. See the section '**Do I need legal advice?**' below.

You need to have 'sufficient interest' in the case. This means you need to be directly or indirectly affected by the decision. Usually you will be the person using the services or their carer.

What will happen?

There are 2 stages.

First, the judge must agree that you have a case. If they think you do, there can be a full hearing. You do not normally have to go in person to the court or give evidence.

The judge will think about whether the local authority or NHS made the decision in the right way. This includes whether they:

- had the power to make the decision,
- followed a very rigid policy when they should not have,
- thought about equality issues,
- thought about the wrong things,
- did not consult local people, or
- refused to take important evidence into account.

The judge cannot say that cutting a service is the wrong decision. So, in some cases, challenging the decision may just delay it.

The judge might think the local authority or NHS has made the decision in the wrong way. They will have to go through the proper process to make the decision.

You can find out more about the judicial review process here:

- <https://publiclawproject.org.uk/content/uploads/2019/02/Intro-to-JR-Guide-1.pdf>
- www.gov.uk/guidance/administrative-court-bring-a-case-to-the-court

What is an injunction?

Once a judicial review case has started, it is possible to ask the court for an order, known as an 'injunction.' This is to stop the cut being made while the judicial review case is ongoing.

An injunction can be made quickly if necessary.

An injunction could be important. This is because sometimes it can take a long time for courts to hear judicial review cases.

You will need speak to your solicitor about getting an injunction.

Is judicial review the right option for me?

Judicial review might be the right decision for you, and others who support you.

Try not to be put off by challenging a big organisation like the NHS. People do win judicial review cases.

But you cannot get financial compensation from judicial review. They can take a long time and a lot of work. So, think carefully before you start one.

Do I need legal advice?

If you want to go to court, we recommend you get advice from a solicitor.

Try to get advice from a solicitor who has experience of judicial review of NHS or local authorities.

You can search for a solicitor on the Law Society website:

<https://solicitors.lawsociety.org.uk>

Where it says, 'Your legal issue', choose, 'Social welfare, health and benefits' from the drop-down menu.

What is legal aid?

Judicial review cases can be very expensive, so your solicitor's fees might cost a lot.

You may be able to get legal aid. Legal aid can help meet the costs of legal advice, and representation in a court or tribunal.²² You will need to find a solicitor who does legal aid work.

You can check to see if you can get Legal Aid by using this website:

www.gov.uk/check-legal-aid.

Or by contacting the **Civil Legal Advice Service**. You can find their contact details in the [Useful contacts](#) section at the end of this factsheet.

If you cannot get legal aid, some charities or interest groups may be willing to fund judicial review on your behalf. You can find out how you might be able to get free legal help in our 'Legal advice - How to get help from a solicitor' factsheet.

You can find more information about '**Legal advice – How to get help from a solicitor**' at www.rethink.org. Or call our General Enquiries team on 0121 522 7007 and ask them to send you a copy of our factsheet.

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Useful Contacts

Care Quality Commission (CQC)

Responsible for completing checks and reports on standards of NHS services and care homes.

Phone: 03000 616161

Address: CQC National Customer Service Centre, Citygate, Gallowgate, Newcastle upon Tyne, NE1 4PA

Email: enquiries@cqc.org.uk

Website: www.cqc.org.uk

Civil Legal Advice (CLA)

Provides information and advice on Legal Aid

Phone: 0345 345 4 345

Minicom: 0345 609 6677

Website: www.gov.uk/civil-legal-advice

38 Degrees

A digital campaign platform to start your own campaign or support a local campaign.

Website: <https://home.38degrees.org.uk/>

House of Commons Enquiry Service

Can provide advice to the public about the House of Commons and help put you in touch with your MP.

Phone: 0800 112 4272 (Freephone)

Address: House of Commons Information Office, House of Commons, London, SW1A 0AA

Email: hcenquiries@parliament.uk

Website: www.parliament.uk/mps-lords-and-offices/offices/commons/house-of-commons-enquiries-service/

Information Commissioner's Office (ICO)

An independent authority that protects an individual's right to have their data protected.

Phone: 0303 123 1113

Live chat: <https://ico.org.uk/global/contact-us/contact-us-public/public-advice>

Website: <https://ico.org.uk>

ipetitions

Online resource for making and sharing petitions. Each local authority should have a petition scheme which states how many signatures are needed to respond to different petitions.

Website: www.ipetitions.com

Law Society

The Law Society maintains a list of practising solicitors in England and Wales. You can use their website to find a local solicitor.

Phone: 020 7320 5650

Email via enquiry form: www.lawsociety.org.uk/contact-or-visit-us

Website: www.lawsociety.org.uk

References

- ¹ GOV.UK. *The NHS Constitution of England*. Principle 6. www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england (accessed 26th September 2023)
- ² S21 Health & Care Act 2022
- ³ Care Quality Commission. *The Care Act and the 'easements' to it* <https://www.cqc.org.uk/guidance-providers/adult-social-care/care-act-easements-it> (accessed 1 May 2024)
- ⁴ s18(1) Care Act 2014 c23
- ⁵ Department of Health. *Care and support statutory guidance*. (2017) Para. 4.36 www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#contents (accessed 3rd March 2024)
- ⁶ NHS England. *Patient and public participation in commissioning health and care: Statutory guidance for clinical commissioning groups and NHS England*. Page 24, under 'Who needs to be involved'. www.england.nhs.uk/wp-content/uploads/2017/05/patient-and-public-participation-guidance.pdf (accessed 3rd March 2024)
- ⁷ NHS England. *Patient and public participation in commissioning health and care: Statutory guidance for clinical commissioning groups and NHS England*. www.england.nhs.uk/wp-content/uploads/2017/05/patient-and-public-participation-guidance.pdf (accessed 3rd March 2024)
- ⁸ NHS England. *Patient and public participation in commissioning health and care: Statutory guidance for clinical commissioning groups and NHS England*. Page 24, under 'Who needs to be involved'. www.england.nhs.uk/wp-content/uploads/2017/05/patient-and-public-participation-guidance.pdf (accessed 3rd March 2024)
- ⁹ S21 Health & Care Act 2022
- ¹⁰ Mills & Reeve solicitors. *Reconfiguring services: when must NHS bodies consult the public? How do they go about doing it? And how can they protect themselves from legal challenge?* See 'The legal duty to consult' psge 3. <https://www.patientlibrary.net/cgi-bin/download/file/116791> (accessed 3rd March 2024)
- ¹¹ Gov.uk. *Consultation Principles: Guidance*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles_1_.pdf (accessed 3rd March 2024)
- ¹² Healthwatch. *What we do*. www.healthwatch.co.uk/about-us (accessed 3rd March 2024).
- ¹³ Healthwatch. *What we do*. www.healthwatch.co.uk/about-us (accessed 3rd March 2024).
- ¹⁴ Healthwatch. *Local Healthwatch, Health and Wellbeing Boards and health Scrutiny*. See under 'Local Healthwatch', page 4. <https://insighttoimpactconsulting.files.wordpress.com/2017/10/local-healthwatchhealth-roles-relationships-and-adding-value.pdf> (accessed 3rd March 2024).
- ¹⁵ Kings Fund. *Health and Wellbeing Boards explained*. See 'What are Health and Wellbeing boards?', Para 1 www.kingsfund.org.uk/publications/health-wellbeing-boards-explained#what-are-hwbs (accessed: 3rd March 2024)
- ¹⁶ S194(2) Health and Social Care Act 2012 c7.
- ¹⁷ Courts and Tribunals Judiciary. *Judicial review*. www.judiciary.gov.uk/you-and-the-judiciary/judicial-review/ (accessed: 3rd March 2024)
- ¹⁸ Mills & Reeve solicitors. *Reconfiguring services: when must NHS bodies consult the public? How do they go about doing it? And how can they protect themselves from legal challenge?* See 'The legal duty to consult' psge 3. <https://www.patientlibrary.net/cgi-bin/download/file/116791> (accessed 3rd March 2024)
- ¹⁹ Steve Broach & Kate Whittaker. *Using the law to fight cuts to disabled people's services*. 2012. Page 13. www.centreforwelfarereform.org/uploads/attachment/270/using-law-to-fight-cuts.pdf and www.centreforwelfarereform.org/library/using-the-law-to-fight-the-cuts.html (accessed 3rd March 2024).
- ²⁰ The Consultation Institute. *When to consult, short guidance*. <https://www.consultationinstitute.org/when-to-consult-a-short-guidance/> (accessed 3rd March 2024).
- ²¹ Public Law Project. *An Introduction to Judicial Review*. <https://publiclawproject.org.uk/content/uploads/2019/02/Intro-to-JR-Guide-1.pdf> & <https://publiclawproject.org.uk/resources/an-introduction-to-judicial-review-2/> (accessed 3rd March 2024)
- ²² Gov.uk. *Legal aid*. www.gov.uk/legal-aid (accessed 3rd March 2024).

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Rethink Mental Illness Advice Service

Phone 0808 801 0525

**Monday to Friday, 9:30am to 4pm
(excluding bank holidays)**

Email a



Patient Information Forum

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We'd love to know if this Information helped you

Drop us a line at: feedback@rethink.org

or write to us at Rethink Mental Illness:

RAIS

PO Box 18252

Solihull

B91 9BA

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Monday to Friday (excluding bank holidays)

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**Equality, rights, fair treatment, and
the maximum quality of life for all
those severely affected by mental
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For further information on Rethink
Mental Illness Phone 0121 522 7007
Email info@rethink.org



rethink.org

Need more help?

Go to rethink.org for information on symptoms, treatments, money and benefits and your rights.

Don't have access to the web?

Call us on 0121 522 7007. We are open Monday to Friday, 9am to 5pm, and we will send you the information you need in the post.

Need to talk to an adviser?

If you need practical advice, call us on: 0808 801 0525 between 9:30am to 4pm, Monday to Friday. Our specialist advisers can help you with queries like how to apply for benefits, get access to care or make a complaint.

Can you help us to keep going?

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