

# Challenging cuts

## How to campaign against cuts to health and social care services

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Sometimes local authorities or the NHS make cuts or closures to mental health services. They may say this is needed to modernise services, or for financial reasons. It is possible for you to challenge cuts or closures. This factsheet shows you how you can do this.



KEY POINTS

- Sometimes speaking to service managers, the media, social media or contacting your MP is 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.
- If the local authority or NHS does not do a consultation, or acts unlawfully, you may be able to apply for judicial review.
- It is important to understand that if you want to take legal action this can cost a lot of money. If you cannot afford to pay for a solicitor, you may be able to get legal aid. If you are not eligible for legal aid, you will have to pay for this yourself.

### **This factsheet covers:**

1. [Why do some mental health services get cut?](#)
2. [What will happen if I am using the service?](#)
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## 1. Why do some mental health services get cut?

### **NHS Policy**

The NHS Constitution has principles on how the NHS should be run. Principle 6 talks about “providing best value for taxpayers’ money and the most effective, fair and sustainable use of finite resources”. This means that the NHS must review its services regularly. Sometimes services no longer fit with the NHS plans or budgets.

NHS Clinical Commissioning Groups (CCGs) and local authorities decide which services they will offer in their area. These people are called ‘commissioners’. If commissioners must make cuts they will sometimes close services and replace them with a cheaper alternative.

Clinical commissioning groups (CCGs) are NHS organisations set up to organise the delivery of NHS services in England. Each CCG organises NHS services in its local area.

To find out your local CCG you can look here: [www.nhs.uk/Service-Search/Clinical%20Commissioning%20Group/LocationSearch/1](http://www.nhs.uk/Service-Search/Clinical%20Commissioning%20Group/LocationSearch/1)

## 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. However, the NHS and the local authority do have a duty of care to signpost you to alternative services and support.

### **NHS services**

If an NHS service is cut or closed and they cannot support you any more, they will need to follow their discharge policy. You can ask them how you will get help for your mental health in the future.

### **Social care**

Local authorities should regularly review care services. If there is a possible risk of funding cuts they should plan ahead to find a potential replacement service. The LA should maintain continuity of care and support for people at risk of losing this service.<sup>1</sup>

You can find more information on this in our ‘Social Care Assessment and Eligibility’ factsheet, which you can download for free from [www.rethink.org/factsheets](http://www.rethink.org/factsheets). Or call 0121 522 7007 and we can send you a copy.

### 3. How can I challenge cuts or closures?

There are several things you can try. It is best to try several different approaches. Don't give up hope if one does not work.

#### **Talk directly to the service provider**

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

#### **Patient participation groups**

Patients must be involved in the commissioning process.<sup>2</sup> You can join a patient participation group at your GP's surgery.<sup>3</sup> This may give you access to the CCG and an input in the commissioning process.

#### **Campaigning**

Campaigning is trying to reach a goal by gaining public 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.

You can find lots of helpful information on the 'Campaigns' section of the Rethink Mental Illness website here: [www.rethink.org/get-involved/campaigns](http://www.rethink.org/get-involved/campaigns).

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.

Campaigning can take up a lot of time and can be tiring and frustrating. Think about whether this will affect your mental health and if it fits with the other things your life

#### **Take part in the public consultation**

A consultation tells the public about proposed changes and asks for their views. Local authorities or the NHS should only make significant cuts if they have a public consultation first.<sup>4</sup>

The consultation will tell you how you can give your views. This could be by an online survey, email or letter. They should give you time to respond and enough information so you can respond in detail.<sup>5</sup>

#### **HealthWatch**

The local Health Watch services role is to inspect local health and social care services. By speaking to your local HealthWatch you can raise your

concerns about cuts.<sup>6</sup> These may be escalated to the national service. HealthWatch have a seat on local Health and Wellbeing Boards and can challenge clinical commissioning decisions.<sup>7</sup>

You can find your local HealthWatch here: [www.healthwatch.co.uk/find-local-healthwatch](http://www.healthwatch.co.uk/find-local-healthwatch)

### **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, with clinical commissioning groups (CCGs), to produce a joint health and wellbeing strategy for their local population.<sup>8</sup>

The members of a local HWB should include senior health and social care managers of the local authority, someone from the CCG and at least one councillor.<sup>9</sup>

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

You could ask to speak to your local councillor or MP about your concerns. They could feed back these concerns to the HWB.

### **Judicial review**

Judicial review is a type of legal case. It means that a judge decides whether a government body acted legally or not.<sup>10</sup>

If you have tried all the steps above and feel that they have not worked, you may want to 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?**

If you 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.

For example, 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.

Because of the cuts, 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 can't use it any more.
- 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.

### **Service evaluations**

A service evaluation says how a service has been performing. They are written by organisations that 'inspect' or 'audit' the service. If the service has any 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 your local CCG.

### **Surveys**

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 make. Try to get at least 30 – 50 completed surveys to give a realistic picture. If you keep the survey short more people are likely to complete it.

There are websites which you can use to make online surveys. One to try is: [www.surveymonkey.com](http://www.surveymonkey.com)

### **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 ten 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](http://www.citizensadvice.org.uk/Global/CitizensAdvice/Equalities/How%20to%20run%20focus%20groups%20guide.pdf)

### **Case studies**

It can be useful to share personal stories of people who have used the mental health service. You can ask them about the impact this service has had on their lives. 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 permission first. If the person would prefer not to give their name, you could offer to change it when you write the story.

## 5. How can I raise awareness of 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 like Facebook and Twitter.

### 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 should 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.

Be careful to present your findings accurately. If you are honest people will take more notice of your brief. Keep people's information secret if they prefer. You can do this by removing names and other identifying information.

### Speak to your MP

You can contact your MP to tell them about your concerns. They may support your campaign or write to services to get more information.

#### Finding out who your MP is

You can search to see who your local MP is at [www.parliament.uk/mps-lords-and-offices/mps](http://www.parliament.uk/mps-lords-and-offices/mps) or contact the House of Commons Information Office. Contact details can be found in the 'Useful contacts' section at the end of this factsheet.

#### Contacting your 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](http://www.writetothem.com).
- Write an email and share it with other people who support you.
- Meet your MP in person at a 'surgery'.
- Write a letter.

If you would like to write to your MP, their address will be:  
[Your MP's name], House of Commons, London, SW1A 0AA

## Using the media

You could contact local newspapers, radio or television to see if they are interested in running a story on the planned cuts. If the campaign has a lot of local support or involves lots of local people then they are more likely to be interested. They are also likely to want to speak to someone who is part of the campaign and may ask you to do an interview.

## Using social networking sites

Social networks such as Facebook or Twitter are a good way of making people aware of the proposed cuts. You can use social media to link to 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 and 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.<sup>11</sup>

Once a local authority or the NHS decides to consult the public, they should:<sup>12,13</sup>

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

### When does there have to be a consultation?

Your local authority or the NHS will have to consult local people if:<sup>14</sup>

- the law says they have to,
- they promised to,
- they've always consulted on similar issues in the past, or
- the changes will have a serious impact on people.

### Local authority

A local authority may consult before they close a care home. But they don't have to.

Local authorities should consult local people if they decide to change who can have social care services.<sup>15</sup>

## NHS

The NHS must have procedures to make sure that they ask people who use a service about any planned changes.<sup>16</sup>

If the local authority or NHS doesn't consult when it should, then their decision might not be valid. You may be able to take them to court.

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### **7. What is judicial review?<sup>17</sup>**

Judicial review is a type of court process. The judge decides if a public body has followed the law when making a decision or action. Judicial review focuses on whether the law has been correctly applied, and the right procedures have been followed. It does not decide if the decision is right or wrong.

Judicial review is an option you can use if a local authority or the NHS has not done a proper consultation before cutting a service.

#### **Where do I start?**

- The process is complicated and you have to act quickly.
- You should speak to a solicitor who specialises in 'public law'.
- You only have **3 months** from the start of the decision you are challenging to apply for judicial review.
- You need to have 'sufficient interest' in the case. 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 two stages. First, the judge must agree that you have a case. If they think you do, there can be a full trial. 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:

- didn't have the power to make the decision,
- followed a very rigid policy when they shouldn't have,
- thought about equality issues,
- thought about the wrong things,
- didn't 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. If the judge thinks the local authority or NHS has made the decision in the wrong way, they may just do it again properly.

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

[www.gov.uk/guidance/administrative-court-bring-a-case-to-the-court](http://www.gov.uk/guidance/administrative-court-bring-a-case-to-the-court)

## Is this the right option for me?

Deciding to make a judicial review is a big decision. Judicial review will not give you financial compensation. It can be stressful, expensive and time consuming. It is important to think about whether it is the right option for you.

## Do I need legal advice?

If you want to go to court, you will need advice from a solicitor. Try to speak to a solicitor who has experience of judicial review of NHS or local authorities. You can search for a solicitor on the Law Society website: <http://solicitors.lawsociety.org.uk/>

If you cannot afford to pay for a solicitor, you may be able to get legal aid. You will need to find a solicitor who does legal aid work. If you are not eligible for legal aid, you will need to think very carefully about using judicial review. Cases can be extremely expensive.

You can find out if you are eligible for Legal Aid by contacting the Civil Legal Advice Service. You can find their contact details in the 'Useful Contacts' section at the end of this factsheet.

Some charities or interest groups may be willing to fund judicial review on your behalf. But this is very rare.

You can find more information in our '**Legal advice**' factsheet which you can download for free from [www.rethink.org/factsheets](http://www.rethink.org/factsheets). Or contact 0121 522 7007 and ask for a copy to be sent to you.

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### Care Quality Commission (CQC)

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

**Telephone:** 03000 616161

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

**Email:** Via website

**Website:** [www.cqc.org.uk](http://www.cqc.org.uk)

### Civil Legal Advice (CLA)

Provides information and advice on Legal Aid

**Tel:** 0345 345 4 345 (Monday to Friday, 9am to 8pm Saturday, 9am to 12:30pm)

**Minicom:** 0345 609 6677

**Website:** [www.gov.uk/civil-legal-advice](http://www.gov.uk/civil-legal-advice)



### **False economy**

Online database of resources for local campaign groups. It has a section where you can report and update cuts or write a testimony about how welfare cuts will affect you.

**Website:** [www.falseeconomy.org.uk](http://www.falseeconomy.org.uk)

### **House of Commons Information Office**

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

**Telephone:** 0800 112 4272 (Freephone) (10am-midday and 2-4pm Monday - Friday)

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

**Email:** [hcenquiries@parliament.uk](mailto:hcenquiries@parliament.uk)

**Website:** [www.parliament.uk/mps-lords-and-offices/offices/commons/hcio/about-our-service/](http://www.parliament.uk/mps-lords-and-offices/offices/commons/hcio/about-our-service/)

### **Information Commissioner's Office (ICO)**

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

**Telephone:** 0303 123 1113 (9am to 5pm Monday to Friday)

**Email:** via website

**Website:** [www.ico.org.uk/](http://www.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](http://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.

**Tel:** 020 7320 5650 (Monday to Friday from 09:00 to 17:30)

**Email:** [findasolicitor@lawsociety.org.uk](mailto:findasolicitor@lawsociety.org.uk)

**Web:** [www.lawsociety.org.uk/](http://www.lawsociety.org.uk/)

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<sup>1</sup>Department of Health. *Care and support statutory guidance*. (2017) para. 4.36 [www.gov.uk/government/publications/care-act-statutory-](http://www.gov.uk/government/publications/care-act-statutory-)



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- [guidance/care-and-support-statutory-guidance#contents](#) (Accessed: 18<sup>th</sup> December 2017)
- <sup>2</sup> 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](http://www.england.nhs.uk/wp-content/uploads/2017/05/patient-and-public-participation-guidance.pdf) (accessed 5 January 2017)
- <sup>3</sup> NHS England, *NHS England Standard General Medical Services Contract 2016/17 (v3)*. <https://www.england.nhs.uk/wp-content/uploads/2017/02/GMS-16-17.pdf> para 5.2 (accessed 5 January 2018)
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- <sup>5</sup> Gov.uk. *Consultation Principles: Guidance*. [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/492132/20160111\\_Consultation\\_principles\\_final.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/492132/20160111_Consultation_principles_final.pdf) (accessed 5 January 2018)
- <sup>6</sup> Health Watch. *About Us*. [www.healthwatch.co.uk/about-us](http://www.healthwatch.co.uk/about-us) (Accessed: 2<sup>nd</sup> November 2017)
- <sup>7</sup> Healthwatch. *Healthwatch and Health and Wellbeing Boards*. [https://www.healthwatch.co.uk/sites/healthwatch.co.uk/files/20130606\\_health\\_and\\_wellbeing\\_boards\\_hwb\\_ca\\_dr.pdf](https://www.healthwatch.co.uk/sites/healthwatch.co.uk/files/20130606_health_and_wellbeing_boards_hwb_ca_dr.pdf) (accessed 5 January 2018).
- <sup>8</sup> Kings Fund. *What are Health and Wellbeing Boards?* [www.kingsfund.org.uk/publications/health-wellbeing-boards-explained#what-are-hwbs](http://www.kingsfund.org.uk/publications/health-wellbeing-boards-explained#what-are-hwbs) (Accessed: 2<sup>nd</sup> November 2017)
- <sup>9</sup> S194(2) Health and Social Care Act 2012 c7.
- <sup>10</sup> Courts and Tribunals Judiciary. *Judicial review*. [www.judiciary.gov.uk/you-and-the-judiciary/judicial-review/](http://www.judiciary.gov.uk/you-and-the-judiciary/judicial-review/) (Accessed: 2<sup>nd</sup> November 2017)
- <sup>11</sup> As note 4.
- <sup>12</sup> As note 5
- <sup>13</sup> Steve Broach, S. & Whittaker, K. (Doughty Street Chambers / Irwin Mitchell Solicitors) *Using the law to fight cuts to disabled people's services*. 2012. Page 12. [www.centreforwelfare-reform.org/uploads/attachment/270/using-law-to-fight-cuts.pdf](http://www.centreforwelfare-reform.org/uploads/attachment/270/using-law-to-fight-cuts.pdf) (Accessed: 7<sup>th</sup> November 2017).
- <sup>14</sup> As note 5.
- <sup>15</sup> NHS England. *Managing Care Home Closures*. [www.nhs.uk/NHSEngland/keogh-review/Documents/quick-guides/1577\\_QuickGuide-CareHomes\\_9.pdf](http://www.nhs.uk/NHSEngland/keogh-review/Documents/quick-guides/1577_QuickGuide-CareHomes_9.pdf) (Accessed: 8<sup>th</sup> January 2018)
- <sup>16</sup> S242, National Health Service Act 2006 c. 41
- <sup>17</sup> Public Law Project. *An Introduction to Judicial Review*. [www.publiclawproject.org.uk/data/resources/6/PLP\\_Short\\_Guide\\_3\\_13\\_05.pdf](http://www.publiclawproject.org.uk/data/resources/6/PLP_Short_Guide_3_13_05.pdf) (Accessed: 8<sup>th</sup> January 2018)

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**Phone 0300 5000 927**

**Monday to Friday 9.30am to 4pm**

**(excluding bank holidays)**

**This factsheet is available  
in large print.**

**Email [advice@rethink.org](mailto:advice@rethink.org)**

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### **Did this help?**

We'd love to know if this information helped you.

**Drop us a line at:** [feedback@rethink.org](mailto:feedback@rethink.org)

**or write to us at Rethink Mental Illness:**

RAIS

PO Box 17106

Birmingham B9 9LL

**or call us on 0300 5000 927.**

We're open 9:30am to 4pm

Monday to Friday (excluding bank holidays)



**Leading the way to a better  
quality of life for everyone  
affected by severe mental illness.**

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