



Department  
of Health &  
Social Care

*Karin Smyth MP  
Minister of State for Health (Secondary Care)*

*39 Victoria Street  
London  
SW1H 0EU*

06/11/2024

Dear Freddie van Mierlo MP,

Thank you for your letter of 22 July 2024, asking the Secretary of State to use the powers under Schedule 10A of the National Health Service Act 2006 to call in the decision by the NHS Buckinghamshire, Oxfordshire, and Berkshire West Integrated Care Board (BOB ICB) and Oxfordshire County Council (OCC) to close seven step-down beds at Chiltern Court Care Home.

### **Summary of your request**

You requested that the closure of seven step-down beds at Chiltern Court Care Home be called in because you have concerns with the process that has been followed by the NHS BOB ICB and OCC, specifically a lack of public engagement and consultation on the closure of the beds.

### **Ministerial intervention powers**

The Department has published statutory guidance on the call-in powers in [Reconfiguring NHS services - ministerial intervention powers](#), which sets out how call-in requests may be considered. As explained in the statutory guidance, it is likely that a reconfiguration will not be called in before:

- NHS commissioning bodies and local authorities have taken all reasonable steps to try to resolve any issues; and
- those making a request, or others have tried to resolve any concerns through their local NHS commissioning body or have raised concerns with their local Health Overview and Scrutiny Committee.

To inform a decision on whether to call in a proposal, ministers may consider whether the proposed change meets at least one of the following criteria:

- there are concerns with the process that has been followed by the NHS commissioning body or NHS provider; or
- a decision has been made and there are concerns that a proposal is not in the best interests of the health service in the area.

In addition, ministers may consider:

- whether the reconfiguration proposal is considered to be substantial; or
- the regional or national significance of an NHS service reconfiguration and the impact on the quality, safety, or effectiveness of services.

## **Secretary of State's decision**

Your letter and all of the available information has been considered as set out in the statutory guidance, alongside other available information listed below. On balance, the Secretary of State has decided that this does not meet the threshold for intervention.

Key information considered includes:

- Information provided with John Howell's call-in request
- Minutes of Oxfordshire Joint Health Overview & Scrutiny Committee, Tuesday, 16 January 2024
- Information provided to the Department by NHS BOB ICB
- The Oxfordshire Health and Well-Being Board Better Care Fund plan for 2023-2025

I understand that the ICB discussed the issue with Oxfordshire Joint Health Overview & Scrutiny Committee (JHOSC) on 16 January 2024 and that the JHOSC did not consider it a substantial change. I note that this has been raised with the county council and ICB. I would continue to encourage you to engage with BOB ICB on the aims of the Better Care Fund and provision of out of hospital support in south Oxfordshire.

While we appreciate how patients and the public may feel about the decision, we do not consider this change in particular to be a regionally or nationally significant NHS reconfiguration within the meaning of the guidance.

I would like to clarify that a service being funded from the BCF does not impact duties on NHS commissioners or local authorities to involve patients and the public, through engagement or consultation. I understand that the ICB and LA have, as joint commissioners, agreed approach to hospital discharge which involves less demand for step down beds. This change also supports Home First Discharge to Assess for people who are admitted to hospital, which is a key objective in their 2023-25 BCF plan, by increasing the number of people going home from hospital.

Turning to your concerns about the framework for pooled funding and whether it impacts public consultation, it may be helpful if I explain some background to the BCF. The BCF provides ICBs and local authorities with a framework to make joint plans and pool budgets for the purposes of delivering better joined-up care. The plans produced are signed off by Health and Wellbeing Boards (HWBs). These plans are then assured by NHS England with LGA input and oversight from DHSC and MHCLG. Local authorities and ICBs can voluntarily pool funds into the BCF year-on-year.

The 2023-2025 BCF policy framework includes four national conditions:

- Plans to be jointly agreed by ICBs and local authorities;
- Maintain NHS spend on adult social care in line with BCF growth and invest in NHS-commissioned out of hospital services;
- Implementing BCF policy objective 1: enabling people to stay well, safe and independent at home for longer;

- Implementing BCF policy objective 2: providing the right care in the right place at the right time.

Local authorities and ICBs must make sure that they have placed the funding into a section 75 agreement – a legal agreement for pooling health and social care funding. They will also have to report on actual spend and confirm that the conditions of the BCF have been met at the end of the financial year. This provides assurance that the money has been spent in line with the BCF policy.

As part of the BCF planning and assurance process, local areas and ICBs must agree a plan for their HWB area. BCF partners will need to submit a narrative plan and a planning template, providing details of expenditure from BCF funding sources, capacity and demand as well as ambitions and delivery plans for BCF metrics. BCF plans will be assured and moderated regionally, as well as calibrated across regions. Plans are put forward for approval by NHSE in consultation with DHSC and MHCLG.

The Secretary of State's view is that as local joint commissioners, the NHS BOB ICB and OCC are best placed to determine the needs of their local population. Further, I understand that Oxfordshire's Joint Health Overview and Scrutiny Committee (JHOSC) has also made recommendations to support the communication of this change and for the development of an evaluation to learn from the process of this change overall.

As set out in the guidance, it is important that integrated care systems operate with a high degree of autonomy in making decisions in the interests of their populations. However, we also expect the ICB and JHOSC to continue to work together particularly in regard to the recommendations made by the JHOSC.

Kind regards,

A handwritten signature in black ink that reads "Karin Smyth". The signature is written in a cursive style and is positioned above a solid horizontal line.

**KARIN SMYTH**  
**MINISTER OF STATE FOR HEALTH**