

18. Duty of NHS Bodies or Health Service Providers to Consult on Substantial Developments or Variations in Provision of Service

Under Regulation 23(1) of The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 an NHS body or health service provider must consult the Committee, where it has under consideration any proposal for a substantial development of the Health Service or a substantial variation in the provision of such service. This will not apply where:

- a) it is a proposal to establish or dissolve or vary the constitution of the ICB or establish or dissolve an NHS Trust unless the proposal involves a substantial development or variation.
- b) proposals are part of a trust's special administrator's report or draft report (i.e. when a trust has financial difficulties and is being run by an administration put in place by the Secretary of State). These are required to be the subject of a separate 30-day community – wide consultation.
- c) the relevant NHS body or health service commissioner believes that a decision has to be taken without allowing time for consultation because of a risk to safety or welfare of patients or staff. In such cases the NHS body or health service provider must notify the local authority that consultation will not take place and the reason for this.

The NHS body or health service provider must inform the Committee when a consultation is happening, the timeframe of a decision and, following a decision, whether to proceed with the proposal. The Committee may comment on the proposals by a date set by the NHS body or health service provider.

The Committee may report to the Secretary of State in writing where it is not satisfied that:

- d) consultation on any proposal for a substantial change or development has been adequate in relation to content or time allowed (NB. The referral power in these contexts only relates to the consultation with the local authority, and not consultation with other stakeholders)
- e) that the proposal would be in the interests of the health service in Oxfordshire
- f) a decision has been taken without consultation and it is not satisfied that the reasons given for not carrying out consultation are adequate

The Secretary of State may require the NHS body to carry out consultation or further consultation with the Committee as they consider appropriate. The NHS body must then have regard to the outcome of that and reconsider any decision it has taken.