

Lawyers for Save Lewisham react angrily to Government 'Moving Goalposts' on NHS powers

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Lawyers for save Lewisham react to 'last minute' amendment to Lords Care Bill

Lawyers for the Save Lewisham Hospital campaign have reacted angrily after a last minute amendment was 'slotted into' the Care Bill, currently going through the House of Lords, which would give Trust Special Administrators (TSA) much greater powers when running NHS Trusts, and crucially would allow their decisions to change services arbitrarily in neighbouring Trusts.

Today's move by the Government comes only days before the Court of Appeal will hear the Government's appeal against a judgment that the TSA for the South London Healthcare Trust and the Secretary of State for Health, Jeremy Hunt MP, had acted outside their powers and therefore unlawfully, in deciding to make substantial cuts to services and close departments at Lewisham Hospital.

The Care Bill is currently in the Report Stage in the House of Lords. The Third Reading will take place in the House of Lords on Monday 21st October before it is sent to the House of Commons.

In July, Mr Justice Silber, in the High Court said that the Secretary of State had acted outside his powers and in breach of the National Health Service Act 2006, when he announced to Parliament that services at Lewisham Hospital would be downgraded and closed.

Despite being appointed TSA for the South London Healthcare Trust, in his final report to the Secretary of State in January 2013, Mr Kershaw not only proposed to break up South London Healthcare Trust but also to make massive cuts to Lewisham Healthcare Trust, in particular to Lewisham Hospital which it runs.

Mr Kershaw proposed that Lewisham Hospital should close and downgrade some of its services, including its A&E department, acute admitting wards and adult Intensive Care Unit. He also suggested that the maternity service at the hospital should be downgraded or closed completely.

These recommendations were made despite widespread local opposition and agreement by all sides that Lewisham Hospital was a high achieving and popular hospital in good financial health.

In a letter from the Department of Health, sent to all peers dated 15 October 2013, former banker Earl Howe explains that the amendment will:

“Put beyond doubt that the Trust Special Administrator has power to make recommendation, and the Secretary of State/ Monitor the power to take decisions, that affect providers other than the one to which the administrator was appointed.”

Richard Stein from law firm Leigh Day who is representing the Save Lewisham Campaign said:

“This is a very clear example of the Government trying to move the goalposts as they face an appeal they are very likely going to lose. This proposal would not be retrospective so the appeal will still continue. The Government no doubt hope to have the new draconian powers in place so they can use them to impose the cuts on Lewisham Hospital if they are forced by the court to reconsider.

“The High Court clearly stated that both the TSA and the Health Secretary had exceeded their powers in trying to make massive cuts to a successful and popular hospital.

“The Government claims it wants local NHS services to be determined locally. For that reason, at huge expense to the NHS it set up local clinical commissioning groups. It is now trying to centralise control in its own hands about which services should be cut. If they are allowed to get away with these changes, they will be riding roughshod over local clinical commissioning groups and the will of local communities. This is a cynical move which we do not believe will succeed.”

The Save Lewisham Hospital Campaign is made up of and supported by patients, community groups, GPs, hospital doctors, nurses and other health professionals working in Lewisham. The campaign has been supported by the campaigning group 38 Degrees.

David Babbs, Executive Director, 38 Degrees said “Thousands of 38 Degrees members from across the country donated to help fund the court case against the government. This demonstrated the lengths ordinary people were prepared to go to protect the NHS. The fact that they are now trying to sneak through a law which allows them to force through cuts even if local doctors don't agree is totally unacceptable and goes against all of the governments assurances that they want services controlled locally.”

Louise Irvine, Local GP and Chair of the Save Lewisham Hospital campaign, said: “This Government are making profound changes to the law on the hoof to enable them to bully through hospital closures in Lewisham and around the country without the need to consult properly and thoroughly.

“The amendment to the Care Bill they're trying to drive through at great speed, gives them unlimited powers to destroy any hospital, in any geographical area regardless of how successful it is, or how desperately needed it is by that community.

“It is very dangerous indeed if politicians quite deliberately sweep away the checks, balances and full consultation processes that are needed in current legislation to restructure and reduce health services for the population.”

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