

Briefing on the new  
'Section 11' NHS duty –  
consulting and involving  
patients.



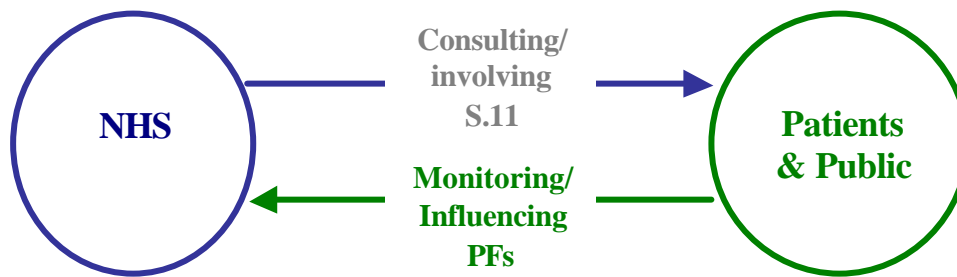
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## Health Link Briefing

### The new NHS duty to consult and involve patients

**Why is patient and public involvement required?** The Bristol scandal demonstrated just how wrong the NHS can sometimes be in what it does for and to patients. The assumption that 'they' know best for patients can never go unchallenged again after the avoidable deaths of numerous babies over a 12 year period at Bristol in a scandal which had reverberations across this country and beyond. The Bristol Enquiry recommended that patients and the public should be involved wherever decisions are made about their care. The result was a raft of reforms to a patient and public involvement in the NHS, including the new 'section 11' duty to consult patients and their representatives at every level of the NHS.



**What is the new duty?** The Health and Social Care Act 2002 introduced a new legal duty on all parts of the NHS to consult and involve patients and their representatives in:

- *planning* of services
- *planning of changes* in how services are provided;
- *decisions* affecting *operation* of services

**What does it cover?** It is hard to think of an area of NHS activity which is not included in these three headings. This new law is about fundamentally recasting the relationship between the NHS and the patients it serves – making the NHS 'patient-flavoured'.

**How does this fit in with Patients Forums?** Patients Forums were introduced by separate legislation a year after S. 11. The two are separate but both form part of the new dialogue between the NHS and the patients it serves. Patients Forums must monitor and influence services, find out the views of all patients, take them to

## NHS duty – consulting and involving patients.

the decision-making table and link up with Overview and Scrutiny. Over time, if a Trust is carrying out its S. 11 duty well, the Patients Forum's work should be easier as the NHS will be working in patient-centred ways.

**How are Patients Forums linked to the Section 11 duty?** PCT Patients Forums have a legal duty to advise on how to perform the S. 11 duty and monitor how well the NHS is doing so. This means that they will monitor their own PCT on this, other Trusts and Strategic Health Authorities. Good working arrangements between a Trust and its Patients Forum are obviously an indicator of involving and consulting patients but separate activity by the NHS to consult and involve patients is also required.

**What role does the Commission for Patient and Public Involvement in Health have on S.11?** Unlike the PCT Patients Forums, it has no formal role although its legal duties include promoting and advising on public involvement and consultation in any decision-making relating to health or health services. There is obvious overlap but as Section 11 is performed locally, the role of the PCT Patients Forums is more important.

**What does it mean in practice?** These are early days for the new arrangements – but every Trust and Strategic Health Authority must be able to show that they are involving patients and what they are doing differently as a result. We would expect every staff member, from the Chief Executive down, to be know about the new duty and feel its effects in their daily working life. There is Performance Framework for patient and public involvement which can be accessed on the Department of Health website ([www.doh.gov.uk/involvingpatients](http://www.doh.gov.uk/involvingpatients))