

# KEEP THE HORTON GENERAL



## The Court of Appeal hearing – the result

Representatives of Keep the Horton General (KTHG) were in Court 71 – in front of the Master of the Rolls, Sir Terence Etherton – on Thursday 14 March 2019 for their Appeal hearing into the unlawfulness of the Oxford Clinical Commissioning Group's (CCG's) first phase consultation. Joining Sir Terence were Lord Justice McCombe and Lord Justice Lindblom.

The three Judges have held that the CCG's consultation was lawful. Unfortunately, the Court of Appeal found that any flaws in the consultation were not so unfair to make the process unlawful.

KTHG is disappointed that one of the highest advocates of law in the land has found against the campaign group.

Nonetheless, Lord Justice Etherton did criticise the manner in which the CCG produced late evidence on the final day of the High Court hearing, which turned out to be materially relied on by the Court, as being "clearly highly unsatisfactory" and remarked that the CCG repeated the same mistake just before the Court of Appeal hearing.

Keith Strangwood, Chairman of KTHG said "in 2008 when the Independent Reconfiguration Panel found in favour of our campaign to retain full services at the Horton General Hospital, we thought our services were safe. Eleven years later and it is all change. We have fought tooth and nail for the people of Banburyshire. We won't give up our fight because we truly believe in the ideal that the majority of best outcomes for patients are delivered close to home. The local population was never given the chance to engage in a meaningful consultation with OCCG. They were robbed of the opportunity to engage with the rule makers. This campaign has only been possible because of the marvellous efforts of our fundraising team and local businesses who ensured that we had the funds to see the fight through to the end. The knowledge, for our campaign group, that our case was heard by the Master of the Rolls says a great deal' he concluded.

Rowan Smith, lawyer at Leigh Day who has represented KTHG throughout the legal action, said:

"Whilst our clients do not agree with the result, the Court of Appeal did at least praise KTHG's "high quality submissions", which is a huge credit to KTHG for taking the appeal this far. Importantly, the Court recognised and agreed with the group's arguments that "there was an important interdependency between the proposed bed closures and the provision of community facilities." On their behalf, the legal team had argued that, given the nature of this interdependency, the CCG should not have waited to consult on community facilities in phase two, when it had planned to made a final decision on bed closures after phase one and before phase two. Although KTHG was not able to achieve its ultimate aim of forcing a fresh consultation, we hope that this legal challenge has made the CCG sit up and take notice of the strength of feeling in the community and we trust that it will listen to their views more readily in the future."

ends

11 April 2019

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**For more details contact our Chairman, Keith Strangwood:**

Tel: 07740 599736  
[www.keepthehortongeneral.org](http://www.keepthehortongeneral.org)



Email: [nkarnia@aol.com](mailto:nkarnia@aol.com)  
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