

Consultation process on closing children's cardiac surgery services at Brompton Hospital was fair, judges rule

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Three Court of Appeal judges have unanimously ruled that the consultation process to decide which hospitals in England should continue to do paediatric cardiac surgery was carried out lawfully.

The ruling is a blow to the Royal Brompton Hospital, which won a High Court judgment last November quashing the consultation on the "Safe and Sustainable" review (*BMJ* 2011;343:d7275, doi:10.1136/bmj.d7275). The review was set up to reconfigure children's heart surgery so that operations are done in fewer, more specialised centres.

Under the consultation's "preferred option" the surgery would no longer be carried out at three centres in London but two: Evelina Children's Hospital, part of Guy's and St Thomas's NHS Foundation Trust, and Great Ormond Street Hospital.

In the High Court last November Mr Justice Owen ruled that the Royal Brompton had a "legitimate expectation" that information on its research would be used in a certain way. But the appeal court judges Mary Arden, Stephen Richards, and Stephen Sedley said that the judge was "wrong" and had come to an "erroneous" conclusion.

They allowed the appeal by the Joint Committee of Primary Care Trusts, which launched the consultation, unanimously declaring that "the consultation process cannot be said to be unfair."

The Royal Brompton argued that its research and innovation had not been scored properly at a rating of 2 ("poor—limited evidence available"). But the appeal court judges said that the hospital had been invited to submit further research after the High Court ruling and had been rescored at 3 ("acceptable").

This had not altered its overall position with respect to the other two hospitals, whose research was considered more relevant to paediatric cardiac surgery.

The judges said that the Royal Brompton's "excellence and its place as a world leading research institution have never been in doubt." They added: "A member of the public might well find it difficult to understand why a centre of the standard of the Royal Brompton should cease to be a centre for paediatric cardiac surgical services under the configuration exercise."

Overall around three quarters of respondents to the consultation, which ended last July, supported the option of two surgical centres in London, but fewer than half of the individuals who responded backed that option.

The Royal Brompton said, "We regret that resources have had to be diverted to this legal case, but when serious assaults are made on patient care, when internationally acclaimed clinical teams are effectively put on notice, when groundbreaking research teams who may be on the cusp of a significant breakthrough in cystic fibrosis tell us their research will not be possible under the Safe and Sustainable proposals, then drastic measures are called for. We had to fight to protect the needs of patients—now and in the future."

The Joint Committee of Primary Care Trusts said that it would look again at all the evidence and the consultation responses. A final decision is expected in July.

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