

## CONSULTATION RESPONSE FORM

### Consultation Proposals - Part 1

#### Control of Entry (Pharmacy Applications) and Dispensing GP Practices

#### The stability of NHS services in remote and rural areas

##### Proposal 1:

The Scottish Government proposes amending legislation that will introduce the designation of *'controlled remote, rural and island localities'* for the purposes of considering pharmacy applications in these areas of Scotland and introducing a 'Prejudice Test' in addition to the test of 'necessary or desirable' (the adequacy test).

Do you agree with this proposal? Yes ✓ No

Please tell us the reason for your answer in the box below

There is a need to protect all NHS services particularly primary medical services in Rural areas. We in Tarves Aberdeenshire have seen a severe reduction in GP provision as a result of the loss of Dispensing revenues after a Pharmacy opened in the village. To ensure a level playing field a clear definition of the "Prejudice test" and a more defined definition of "necessary or desirable" is required.

##### Proposal 2:

The Scottish Government proposes that the designation of an area as a *'controlled remote, rural and island locality'* should be reviewed periodically by NHS Boards so that NHS provided or contracted services are responsive to population changes, and changing healthcare needs and priorities both locally and nationally. It is proposed that the review should be carried out at a minimum of every three years.

Do you agree with this proposal? Yes ✓ No

Please tell us the reason for your answer in the box below

In order to provide flexibility in the provision of services to address changes in the needs of local populations and demographics. There is an urgent need however, to accept that not all rural dwellers have access to a car. NHS Board's PCS Plans that assume that a Pharmacy is accessible because it is within e.g. "a 20 minute car drive" must no longer be accepted. A national definition is required and should in my opinion be a

period of time to walk to the Pharmacy on a lit pavement by an able bodied person at 3mph.

**Proposal 3:**

The Scottish Government is of the view that people living in remote, rural and island areas should have access to NHS pharmaceutical services and NHS primary medical services that are no less adequate than would be the case in other parts of Scotland.

Where the dispensing by a GP practice is necessary, it should be supplemented with pharmaceutical care provided by a qualified clinical pharmacist sourced by the NHS Board to ensure the person-centred, safe and effective use of the medicines. NHS Boards would be required to develop local plans sensitive to local circumstances to achieve this.

Do you agree with this proposal? Yes ✓ No

Please tell us the reason for your answer in the box below

There would be considerable savings in cash terms and an improvement in service to patients if Pharmacists worked from the same building as GPs, particularly in Rural areas. The fact that there is a Pharmacist working alongside the GPs removes the potential problem of a commercial Pharmacy opening and jeopardising primary local medical services, as unfortunately has happened at numerous locations across the country due primarily to the Pharmacists being the experts on the PPCs, GPs should hold an equal number of seats on the PPC as “experts”.

**Consultation Proposals - Part 2**  
**Wider Pharmacy Application Processes**

The proposals discussed in Part 2 apply to all applications to open a community pharmacy whether in a remote, rural or island area, or in other parts of Scotland.

**[Public consultation and the community voice](#)**

**Proposal 4:**

The Scottish Government proposes that the regulatory framework going forward will look to include a community representative among those who

should be notified, as an ‘interested party or persons’, of any application to open a community pharmacy in the locality. The community would therefore in statute be considered as a body or party whose interests may be significantly affected by the pharmacy application.

This would be a nominated representative from, for example, the local Community Council or the local Residents Association or another appropriate local community representative body recognised by the NHS Board.

As an ‘interested party’ the community representative would be entitled to make written representations about the application to the Board to which the application is made within 30 days of receipt of the Board’s notification of the application.

In addition, where the NHS Board PPC decides to hear oral representations, the community representative will be entitled to take part, together with the applicant and the other interested parties, and would be given reasonable notice of the meeting where those oral representations are to be heard. Once each interested party, including the community representative, has presented their evidence in turn they would then leave the hearing leaving the PPC to consider all the evidence presented.

As an ‘interested party’ the community representative will also have a right of appeal against the decision of the NHS Board PPC to represent the views of the local community.

Do you agree with this proposal? Yes ✓ No  
Please tell us the reason for your answer in the box below

Community Councils are the obvious choice for Interested Party status as they are fully constituted bodies and are formed by the democratic process. It is essential that Communities affected by new Pharmacy proposals have a voice that is impartial but fully reflects local opinion.

**Proposal 5:**

The Scottish Government is of the view that in the future PPC hearings should be handled in such a way so that no one person or organisation is able to dominate the entire hearing. This might include options such as limiting the time allocated to give oral representations or the issuing of guidance to PPCs. The Scottish Government thinks that all PPC meetings in future should follow a standard process in the management of PPC Hearings.

Do you agree with this proposal? Yes ✓ No

Please tell us the reason for your answer in the box below

**PPC Chairs have been known to allow either the applicants or an interested party to dominate proceedings and often they tell the PPC how to proceed. There is a need for training for Chairmen and a national standard format to be adhered to in order for everyone involved to know what to expect and to achieve a uniform national standard. The current oral hearing system is inherently bias against the applicant. The applicant is correctly required to fully state their detailed position within the application form and provide supporting documentation. An interested party may object to the application with scant detail. At the oral hearing the interested party may then lead detail of their objection including supporting documentation, make verbal statements all of which the applicant has not had the opportunity to investigate and if appropriate repudiate thus providing the PPC with an accurate information on which to deliberate and make it's decision. The system does not therefore follow a course of "Natural Justice".**

**Proposal 6:**

**The Scottish Government proposes that going forward those assisting in oral representations by the applicant; the community and other interested parties in attendance are able to speak on behalf of those they are assisting.**

**Do you agree with this proposal? Yes ✓ No**

**Please tell us the reason for your answer in the box below**

**Currently the process is flawed and inhibits all parties from having robust oral responses to questioning due to the restriction in number of speakers, and, on occasion, the actions of a Chair that restrict time allowed by an applicant or interested party to answer, clarify or summarise their position.**

**Proposal 7:**

**The Scottish Government proposes that going forward those applying to open a pharmacy, for the purpose of providing NHS pharmaceutical services, should first enter into a pre-application stage with the NHS Board to determine whether there is an identified unmet need in the provision of NHS pharmaceutical services.**

**This would assist NHS Boards in determining the urgency of the demand for NHS pharmaceutical services identified by the applicant. NHS Boards Pharmaceutical Care Services Plans would need to reflect an assessment of service gaps and where need is most urgent.**

Where an application proceeds, the applicant must be able to provide evidence to the NHS Board and the affected communities that every effort has been made to publicise the intention to open a community pharmacy and to consult and obtain responses from residents in the associated neighbourhood. Also, the notice must be advertised in a newspaper and all circulating local news free-sheets and newsletters in the neighbourhood in order to reach the vast majority of residents.

NHS Boards will also be required to do the same level of advertising in relation to its consultation activities.

Do you agree with this proposal? Yes ✓ No

Please tell us the reason for your answer in the box below

More fit for purpose PCS Plans would identify all areas of unmet demand for services, thus the NHS Board would refer to this plan rather than a NHS Board Officer/Pharmacist's own views when approached by an applicant. NHS Boards own consultation should not accept responses from outwith the neighbourhood applied for.

**Proposal 8:**

The Scottish Government proposes that going forward NHS Boards specify to what extent the views of the community have or have not been taken into account in their published decisions on the outcome of a pharmacy application.

Do you agree with this proposal? Yes ✓ No

Please tell us the reason for your answer in the box below

Currently NHS Boards may decide to consult out with the Neighbourhood as applied for. This should cease and only views from those residents in the proposed neighbourhood, who will be served by the new Pharmacy should be consulted. NHS Boards should be more accountable to the Communities they serve and as such should explain how they have taken on board their view and if not why not. This decision should not take into account the financial effect of a pharmacy in a neighbouring neighbourhood where a service is provided by a Dispensing Doctor within the applied for neighbourhood.

**[Securing NHS pharmaceutical services](#)**

**Proposal 9:**

The Scottish Government considers that NHS Boards should be able to take into account how NHS pharmaceutical services would be delivered in practice in the long term after an application has been received. This includes taking into account the financial viability of the pharmacy business proposed. This is an important factor in securing these services in the long term.

Do you agree with this proposal?

Yes ✓

No

Please tell us the reason for your answer in the box below

NHS Boards can not predict everything, and changes in population depend on many things. Land use Planning and the rate of development in housing and infrastructure can significantly affect viability of any business including Pharmacies. Thus too much value should not be placed on the immediate viability of a proposed Pharmacy business. Long term outlook needed. The financial viability test should consider only the need of the neighbourhood ( including any planed approved housing, community facilities or businesses) and not on the perceived income achievable from surrounding neighbourhoods where a Pharmacy or Dispensing Doctor already exists. The total service to the community provided by an existing provider (not just the pharmacy services) both within and outwith the neighbourhood if it could be affected should be sacrosanct and must be taken into account in any decision making process.

### Timeframes for reaching decisions

#### Proposal 10:

The Scottish Government proposes that going forward the regulatory framework would require NHS Board PPCs to make a decision within 6 weeks of the end of the public consultation process and the NAP to make a decision within 3 months upon receipt of an appeal (or appeals) being lodged.

In more complex cases the timeframe would be made extendable where there is a good cause for delay.

Do you agree with this proposal?

Yes ✓

No

Please tell us the reason for your answer in the box below

More clarity in the process is needed here;- How would a "good cause for delay" be defined? and who would decide whether or not there has been a "good cause for delay"? There is certainly a need for a more structured, accountable system of operating for both PPCs and the NAP.

### Expert advice and support to PPCs during deliberations

#### Proposal 11:

The Scottish Government proposes that going forward the regulatory framework would make provisions for the appropriate role of an independent legal assessor acting in a supporting and advisory capacity, including providing advice and guidance on technical and legal aspects of the application process during PPC deliberations.

Do you agree with this proposal?

Yes ✓

No

Please tell us the reason for your answer in the box below

It is essential that PPCs operate and reach decisions in professional manner and whilst a legal assessor may go some way to achieve this, consideration should be given of having of a completely independent Chair or making an independent legal assessor Chair. There is also need for a better Regulatory framework for the NAP and for better monitoring of their decisions, particularly given their failure, on occasion, to adhere to existing written procedures.