



Scottish Government consultation on Control of Entry (Pharmacy Applications) and Dispensing GP Practices

Asda response, February 2014

Asda is proud to be Scotland's second largest supermarket, with more than 60 stores and depots from the Borders to the Highlands. We employ more than 20,000 colleagues and serve approximately 1.8 million customers every week.

Asda has ten pharmacies in our Scottish stores. With long opening hours, accessible locations and highly qualified pharmacist colleagues, they are amongst the busiest pharmacy outlets in Scotland. The prices of our over the counter medicines are at least 5 to 10 per cent lower than the norm and we offer a range of additional services, including: free health checks for all our customers and colleagues, covering blood glucose checks, BMI measurement and blood pressure and cholesterol checks; not-for-profit cancer medication on private prescriptions; not-for-profit IVF treatment; low cost flu jabs; free pregnancy packs with free folic acid and vitamin D; NHS smoking cessation programme services; anti-malaria medication without a prescription; subsidised vitamins for low income groups, and Ventolin asthma inhalers available without a prescription. We also support a range of Scottish Government and NHS health campaigns through our pharmacies. This year we will be supporting the 'Living It Up' campaign in March and the Second-hand Smoke campaign in April, amongst others.

Asda welcomes the opportunity to respond to the Government's consultation on Control of Entry and Dispensing GP Practices.

For further information, please contact:

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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

We believe it is essential to have a clear, unequivocal definition of 'controlled remote, rural and island localities'. The definition will affect our overall view of the proposal and therefore it would have been beneficial to include the definition in the consultation.

Any prejudice test should be clearly defined and must only be in relation to General Medical Services (GMS) offered and not the dispensing element of the practice.

We note the concerns raised by the Company Chemists' Association (CCA) that the proposal is in breach of competition law. Paragraph 1.21 states that commercial considerations are not part of the decision-making process for pharmacy applications. By apparently seeking to protect dispensing GPs from pharmacy applications, commercial considerations are being introduced to the regulations.

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

As described above, there should be clear, unequivocal guidelines on what is to be defined as 'controlled remote, rural and island localities', in a manner that best fits healthcare provision including pharmacy and GMS.

We support the proposal that a regular review should be carried out and a minimum period of every three years seems reasonable. However, we propose that the review is aligned with the transition towards a new statutory framework for NHS Board Pharmaceutical Care Services Planning.

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

We agree that all patients are entitled to receive quality pharmaceutical care.

We would like greater recognition from the Scottish Government and NHS Boards that community pharmacists provide all aspects of clinical pharmaceutical care. Unlike acute services, the majority of these pharmaceutical services are planned.

We support the Company Chemists' Association (CCA) call for a comprehensive feasibility study into access to and provision of pharmaceutical services. This should incorporate the role of telehealth systems and individuals' access to community pharmacy services when visiting larger conurbations.

We would also like greater detail on how NHS Boards would source and support qualified clinical pharmacists. We recommend that these pharmacists should be contracted from nearby community pharmacy contractors. It is important to allow patient choice in the pharmacy and pharmacist that would deliver the service in or from the conurbation most appropriate to their location.

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

We agree that the consultation process needs to be improved.

There is a lack of detail around the definition of an ‘interested party’, including how they would be appointed and how they would engage the public to gather and demonstrate the balanced views of the community. It is also unclear how the role of the ‘interested party’ differs from or would impact the role of lay people on the panel.

The ‘interested party’ would require a clear written mandate and guidance on how local opinion should be gathered and represented in an effective and equitable fashion. They would also require to have good understanding of the pharmaceutical regulations and the processes and procedures that are part of them.

We do not believe that the ‘interested party’ should have the right to appeal the decision because the right to appeal is based solely on a legal challenge.

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

We believe that PPC hearings are rightly handled by the chairperson. A well-briefed and competent chairperson can ensure that all information is presented in a timely manner and that all parties have the opportunity to make appropriate representations. This provides the necessary flexibility for a fair and timely hearing that is able to adapt to more complex applications.

The introduction of artificial limits on representations or guidance would restrict this flexibility and risks curtailing sufficient discussion of pertinent issues.

The meetings should be held during core business hours.

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

We agree with the CCA that only one person should be permitted to speak. All parties can choose who should speak on their behalf and this individual represents the view of that party.

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

We agree that the current process is not fit for purpose.

We believe that responsibility for carrying out public consultation should lie with NHS Boards, not the applicant.

The process could include oversight of any consultation by interested parties, in place of the current pre-application consultation, which could be funded by the applicant at a tariff price.

NHS Boards should set out their process for carrying out effective, transparent and fair public consultation.

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

The decision-making process and procedures of pharmacy applications should be as transparent and robust as any other regulated activity involving public engagement.

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

We do not support the proposal that NHS Boards should take into account the financial viability of pharmacy businesses, which have complex funding regimes not wholly dependent on NHS funding and which vary widely in nature.

We do not believe that NHS Boards have the capability or expertise to assess the ongoing financial viability of these businesses.

We are not aware that NHS Boards are required to take into account the financial viability of other primary care businesses such as GPs, dentists and opticians.

We encourage NHS Boards to enforce the contractual arrangements agreed as part of a new application.

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

The definition of a 'complex case' is required. Otherwise this timeframe specification is helpful.

We recommend the timescales should be extended to the appeals process. Timescales must also apply to re-hearings by PPC if they have been sent back by the National Appeals Panel and suitable trained person(s) must be available.

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

We recommend the current practice should be reviewed in order to identify where improvements should be made. This could address specific issues concerning education and training requirements and streamlining processes.

We support the proposal that a legal assessor should be present, especially during PPC deliberations.

Respondent Information Form

A CONSULTATION ON THE CONTROL OF ENTRY ARRANGEMENTS AND DISPENSING GP PRACTICES

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Asda

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

Jones

Forename

Polly

2. Postal Address

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3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick ONE of the following boxes

Please tick as appropriate
 Yes No

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes