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Annex B

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 agree there is a National need to protect all NHS services particularly primary medical services in Rural areas. In particular rural localities within the definition of outside of urban settlements of 5000 or more which would sustain a commercial pharmacy without need of support.

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

It will provide services contextual to local needs and their changing demographics.

However, there should be strong guidance to NHS Boards regarding provision in rural areas having due regard to those in rural areas who do not have access to cars either regularly or temporarily due to illness. Definitions of distance by car journey time or mileage should be unacceptable.

Journey time or distance should be clearly by walking distance.

Journeys that rely on public transport should be treated with severe caution as access may depend on income or accessibility rather than mere journey times or number of buses per day.

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 is considerable scope for Pharmacists to work 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 indeed has happened at numerous locations across the country.

**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 would be a strong option for the status of Interested Party They are fully constituted bodies and are formed by the democratic process. In their absence, the Health Board should consult principle local authority elected members in that ward or neighbouring wards for an appropriate response.

Pharmacy proposals can have profound effects on local provision and it is essential for effective consultation.

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

Currently PPC Chairs tend to allow commercially interested parties to have an undue part of the process. Our view would be that PPC Chairman should be consistent and knowledgeable regarding the procedures and conduct of meetings.

Oral representations must only cover those issues that have been raised on the application or

as objections. Written Objections should be detailed in nature removing the need for ad hoc oral elements. The submission of new material orally presented should be only accepted if a PPC chairman determines that the information is either essential to take the decision AND it was not able to be submitted prior to the hearing as part of the consultation process.

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 believe that the process is not fit for purpose. The proposal to allow the community to speak would assist in a reform. The Chairman, should use guidance to try to ensure that there is not opinion remaining unexpressed due to procedure and that the question process from the PPC explores all the issues raised.

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

The PCS Plans should have been the mechanism for indicating where pharmacy opportunities or where competitive provision might be appropriate. Stronger guidance in the formation of PCS plans would be helpful to remedy this.

In any case a pre-application discussion on need may be helpful for applicants.

We agree with others that NHS Boards own consultation should not accept responses from outwith the neighbourhood applied for as they are can be purely financial and anticompetitive. If the PCS plan identifies the opportunity, objections from competitive interested parties outwith the neighbourhood should have no weight and not be present at the oral hearing.

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 consult outwith the Neighbourhood as applied for. It would be more beneficial if the consultation was kept within the neighbourhood applied for. For issues of effecting the viability of provision of Pharmaceutical services in other neighbourhoods, then these can be addressed as part of the more robust PCS and pre-application discussion.

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 should have regard to their community planning partners and seek to get best information on development planning within this to make the best possible predictions of population and land use Planning including the rate of development. These will of course affect viability of any business including Pharmacies. However, too much value should not be placed on the immediate viability of a proposed Pharmacy business. And a longer term outlook should be adopted based on the income generated within the neighbourhood.

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? Strong guidance to Chairs of a PPC should be given on what should constitute good cause for a delay and any decision given should be publicly justified for transparency.

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 the 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.

