

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

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

I am delighted to see this legislation being proposed.
My wife and I were GPs on Millport, Island of Cumbrae for 29 years forced to resign by the opening of a pharmacy and consequent closure of GP dispensary which rendered our practice non viable. Our final three years as Doctors were marred by a sustained campaign against us by supporters of the pharmacy in which we were accused of scaremongering and insinuations of personal greed.
Millport's three GP partners resigned on the day the dispensary was closed, 5th April 2013. This was done to ensure that there could be no doubt about the true effects of the introduction of a pharmacy on a remote rural island location. It is small consolation to see appropriate legislation being introduced after the event. Our lives work in building up a practice framework which could benefit the islanders for years to come has been destroyed. This has been so upsetting that we now find even visiting the island again to be traumatic.
The Health Board have not as yet found any GP willing to take over the remains of the practice despite adverts in medical journals since September 2012.
There have also been a number of detrimental knock on effects for the local economy and for employment on Cumbrae.
This proposed legislation is long overdue.

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

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

The costs, and hence profits, from prescribing and dispensing of drugs has doubled over last ten years. The impact of this on service provision is huge and regular review of service needs should be undertaken to avoid a sudden dramatic change such as occurred on Cumbrae in 2013. A gradualist introduction of Pharmaceutical services would have been appropriate over several years but was out with current regulations.

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

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

Despite the damage done to our practice on Cumbrae I would readily acknowledge that Pharmacists do have an important role to play in the provision of medications. As a dispensing doctor I recognised the conflict of interest for a doctor both prescribing and selling medications. I personally resolved this difficulty by delegating the financial side of dispensing to dispensers and made a point of rarely if ever looking at price lists or order books. I believe our very experienced dispensers acted in the buying of medicines as effectively as pharmacists. The regular involvement and advice of a Health Board employed pharmacist would have been welcomed in our GP dispensary.

Current regulations allow for a Doctor to involve a pharmacist by converting the dispensary to a shop. This removes the dispensing 'subsidy' from the practice as surely as the opening of a pharmacy by a commercial Pharmacist. This would have destroyed the Millport practice just as the opening of a community pharmacy eventually did in April 2013.

Allowing for the introduction of a Health Board pharmacist in a fragile rural setting seems a well considered innovation.

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

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

Openness is a fundamental safeguard in a democratic society. The involvement of the community will make it harder for a PPC to operate as an 'old boy network'. Commercial interests are very much involved in PPC deliberations and community representation can help guard against improper practice.

The applicants at PPC hearings can be regular petitioners at such events and well versed in regulations. Local community representatives will not have this knowledge and should be able to employ the services of a legal advisor.

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

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

My own experience of PPC hearings would favour stricter control of oral representations. However the domination of an individual may extend beyond the confines of a PPC hearing. In my opinion the body language of some of those present at the hearing would suggest that they had been put under some pressure or influence prior to the meeting.

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

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

When commercial interests are involved some very eloquent talkers come to the fore. Legal representation for community representatives and others not so acquainted with the regulations would seem essential for balance.

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

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

In Millport over a four year period our practice was subjected to five predatory applications by pharmacists wishing to open premises on the island. Not one of these applicants had the courtesy to pick up the phone or discuss their proposals. A multi disciplinary review of services would have been appropriate from the outset to achieve a satisfactory outcome.

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 publish- but see below

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

The views of a community must be taken into account in a democratic society. No health board should be allowed to ignore the overwhelming views of a community
Ayrshire and Arran ignored the views of the Millport community and now that community is having to live with the consequences while the taxpayer pays the bill

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

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

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?

No

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

NHS officials should be given more not less discretion than is currently available to them. They are expected to run a massive and complex organisation but decision making is to be as civil servants following protocols which can deny them the right to exercise their own common sense. Community Pharmacy is the interface between a nationalised industry, the NHS, and the sometimes ruthless world of private enterprise. I am very conscious that even now as this new legislation is being drafted there will be those in Community Pharmacy who will be working on their options for circumventing the spirit of any new law. Giving more power to the senior management of the NHS not limiting them further would seem the best protection for patients rights and taxpayers money.

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

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

In practice this is probably irrelevant as virtually all PPC decisions end up at the National Appeal Panel. When the Millport appeal was heard in 2011 this panel included four pharmacists from a short list of twelve, two of whom were the applicant and his brother neither of whom could sit on the panel that particular day, 'in the interest of fairness'. The applicant seemed to have an excellent track record of success in applications at NAP. At the hearing he convinced his colleagues on the panel that his shop in Millport would meet latest guidelines as it would measure 140 square metres. This was minuted. In fact it measures at most 40 sq m which is well below recommendations. How this was passed or indeed has never to my knowledge been questioned by Health Board is beyond my comprehension. A lawyer chaired that meeting.