Annex B

CONSULTATION RESPONSE FORM

Consultation Proposals - Part 1

Control of Entry (Pharmacy Applications) and Dispensing GP Practices

<u>The stability of NHS services in remote and rural areas</u>

<u>Proposal 1:</u>

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 x☐** **No ☐**

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

I am a dispensing GP in Drymen. My small practice, in what is according to Scottish Government definition a remote rural area, is in the midst of yet another pharmacy application. There has been a series of 3 applications in the last year- only the third application has actually reached the final stage of PPC meeting. Previous applications were with drawn before the PPC met (the second within a few days of the meeting in August 2013).

I cannot emphasise the destabilising effect the pharmacy applications have had on my practice- my only partner resigned in the summer of 2013 citing the on-going applications as a major reason for his resignation. That has left me working alone with only locum support. This is a very unsatisfactory solution and provides less than ideal continuity for my patients. I have only taken 2 single weeks holiday in the last year considering it unprofessional to leave my practice, covered by only locums, for more than that short time. Other less devoted GPs would not have done the same! I am unable to advertise for a new partner as my practice is not viable without the income derived from the dispensary- which we have historically reinvested in the practice to provide medical services.

There is a very serious rural GP recruitment crises in Scotland just around the corner (indeed it is already evident in many areas) The Scottish Government must act now to protect GP services for vulnerable patients.

My staff have been loyal to the practice and the patients – but working for a year under such uncertainty has tested everyones loyalty and it would be very understandable if staff had found employment in a more secure workplace

My practice, my patients and my staff do not deserve this- neither do vulnerable patients and practices elsewhere.

The prejudice test is welcome but it does not protect the practice from the process and time it takes for an application. In our situation nothing would have changed over the last year, There must be reassurance that when an application is submitted it is rejected as soon as possible if it fails the prejudice test. Practices and

communities should not have to wait for a PPC meeting to decide.

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 x☐

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

I do not consider 3 years as a long enough period to allow GP practices to plan and invest in their practices. A minimum of at least 5 years is more reasonable.
The guidance to this consultation Part 1 4 states " that areas should be deemed by NHS Boards as rural in character taking account of the Scottish Governments Urban /Rural Classifications"
Dispensing GPs and their patients need reassurance regarding the mechanism to define an area as a controlled remote rural and island locality.
This proposal suggests that that Health Boards have total control over the review of this definition/ classification. What input will Dispensing GPs and their patients have on this decision?
Does this protect vulnerable rural patients and dispensing practices enough?

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 x☐ No ☐

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

I have been asking my Health Board to consider a more "imaginative " way to provide the services to patients in the area that I work for a long time. I have always worked closely with our two neighbouring community pharmacists and welcomed any input from our HB pharmacist. There is no need or demand for many of the pharmaceutical services – these are already very adequately covered by the medical and nursing services . I do however welcome the proposal for a more flexible approach which will encourage more collaboration between pharmacists and other service providers – while protecting the current GP practice arrangements

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 x☐

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

While I welcome the principle of inclusion of community input – I question the practicality of this suggestion. The guidance to this consultation states "The NHS Board could invite a nominated representative eg from a local Community Council, Residents Assoc or appropriate local community representative body recognised by the NHS Board" Our recent application involved 3 community councils – now all disbanded , many very vocal local residents and local and national MPs- who would be appropriate to give a balanced view? (incidentally , the written evidence provided by these people was overwhelmingly in favour of the rejection of the application- would that have been considered a balanced view?)
Another related problem I have is that this would mean a local community representative has more input than the affected Dispensing GP. These proposals do nothing to allow the GPs to represent themselves and provide first hand evidence and views to the PPC. It has to be a priority that the dispensing GPs can represent their case at the PPC meeting. The current arrangement of having to be represented by the AMC – usually a non dispensing GP from an different area to that of the application- is seriously flawed. Having just been present at a PPC meeting regarding the application for Drymen the inadequacy of this arrangement was clear to see. PPC members were unable to ask me direct questions. I equally was unable to ask the applicants directly and contribute to the hearing.

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 x☐ No ☐

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

I have now had the misfortune to be present at 2 PPC meetings regarding pharmacy applications in Drymen. I found both meetings to be handled fairly – within the current regulations.
The problem is not in the way meetings were handled, it is the regulations which are at fault. This proposal does not adequately deal with the problem. Current regulations prevent dispensing GPs being able to represent themselves at a PPC meeting regarding a pharmacy application which affects their practice and patients. How can it be fair that an pharmacist can provide oral evidence themselves but a Dispensing GP "assisting" the AMC member has to sit silent unable to contribute (other than through an AMC member). Current regulations allow the pharmacist applicant to dominate by default. There has to be a change in regulations which allow Dispensing GPs to represent themselves – currently they are seriously under represented and dominated during the PPC meeting.

As long as dispensing GPs can only be represented through the AMC they are denied the opportunity representing themselves and the choice of either counsel, solicitor or paid advocate to assist them. This is an opportunity given to the applicant. The dispensing GPs are being unfairly discriminated against and has the potential to allow the applicants to dominate.

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? Yesx ☐ No ☐

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

Again I reiterate my comments regarding proposal 5. It can only be appropriate that Dispensing GPs are able to represent themselves at PPC meetings. A dispensing GP should be allowed to represent themselves AND have an assistant who is able to speak.

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 x☐ No ☐

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

My practice has just had to endure a year of uncertainty resulting from 3 separate pharmacy applications – only the last of which reached PPC meeting. Our local PCSP published in September 2013 lists no service gaps in pharmaceutical services . This proposal would therefore have prevented this application and the insecurity and concern it has caused.

I can only agree with the second part of the proposal if I can be sure that the process, method and results of such public consultation are scrutinised fully.

The last applicants for Drymen placed their notice of intention to apply in the lesser read and cheaper local paper. They then attended the local community council meetings with very short notice and so few locals were aware and attendance was low, at the meetings they gave conflicting and inaccurate information. They carried out a small door to door survey themselves where

they asked a biased question. They acknowledged in their written application that they did not have the support of the majority of the residents- and yet the application process went on – taking several months. They placed inflammatory and inaccurate notices in the proposed shop window.
This evidence was not questioned at the PPC.
The PPC did however ask the AMC where the petition a patient had submitted, which had several hundred signatures against the application, had been collected.
Public consultation is only useful if it provides accurate information and widely available. Method and results should be scrutinised by Health Boards. Current arrangements are little more than tick box exercises and in our case I am unsure that the PPC considered the dubious methods and results obtained by the applicants (but did question the petition collected by my patients at the surgery)

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

Again I reiterate my comments regarding proposal 7.
I am not sure that this proposal will really make a difference to the process- surely Health Boards will continue to say that the views of the community were taken into account.

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 x**☐ **No** ☐

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

This is essential. To risk losing medical services for a dubiously viable pharmacy would indeed be folly.

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 x☐ No ☐

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

Having spent over a year with various pharmacy applications hanging over my prcatice I think any legislation which reduces this – while ensuring a fair hearing for all parties – is good.
However, there should be some mechanism to prevent spurious pharmacy applications which are so damaging and destabalising to dispensing GP practices. The first two applications for Drymen did not reach the stage of PPC but were pending for 7 months. The third application, which did reach PPC meeting stage followed shortly and took a further 6 months. We are at present waiting the 15 working days to learn the result of the meeting held last week.

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 x☐ No ☐

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

There is no doubt that the regulations seem to be complex – over the pharmacy applications I have had involvement in we have received conflicting advice from “experts” at the Health Board.

RE: A consultation on the Control of Entry Arrangements and Dispensing GP Practices

Foster Jennifer (NHS FORTH VALLEY)

Sent: 12 February 2014 23:00

To: Foster Jennifer (NHS FORTH VALLEY); Bruce.Crawford.msp@scottish.parliament.uk; Richard.Simpson.msp@scottish.parliament.uk; Alex.Neil.msp@scottish.parliament.uk

Cc: Hadden Evelyn (NHS FORTH VALLEY); Douglas Derrick (NHS FORTH VALLEY); Cumming Stuart (NHS FORTH VALLEY); Murdoch Peter (NHS FORTH VALLEY); bkeighley@aol.com; lambieg@stirling.gov.uk; King James (NHS FORTH VALLEY); alan.mcdevitt@btinternet.com; DPrince@bma.org.uk; andrew.buist@pearlmedical.co.uk; McLachlan Loraine (NHS FORTH VALLEY); muirheadi@stirling.gov.uk; Morrison Shionagh (NHS FORTH VALLEY); Wheeler Gerry (NHS WESTERN ISLES)

Mr Neil,

I have just completed the Consultation Response Form for Control of Entry (Pharmacy Applications) and Dispensing GP Practices but, as a dispensing GP, I wish to draw your attention to two major areas of concern.

I wish to register my concern with regard to what I consider a significant omission in the consultation proposals. One of the major problems with the current legislation is that the Dispensing GP is unable to represent themselves at the PPC hearings - the proposals do not address this. There is a proposal regarding public involvement but the very professionals , the dispensing GPs, who know their dispensing practice and patients best are not mentioned. Without permitting dispensing GPs to give their own oral evidence at PPC hearings then the pharmacy applicants are at an unfair advantage. The pharmacy applicants will continue to be able to dominate the hearings.

I have just had the misfortune to have to sit silently through a second PPC meeting dealing with pharmacy applications in Drymen. The local Area Medical Committee were able to represent my practice but they do not have first hand knowledge or experience of my dispensing practice, my patients or the local area. I have no doubt the PPC members must have found the inability to ask me questions directly a handicap to gaining all the accurate, relevant information they required to make a fair judgement. I was denied the opportunity to respond directly to any questions or indeed to ask any questions of the other interested parties.

I understand the Scottish Government is aware of the destabilising impact pharmacy applications have on remote, rural and island dispensing practices. I welcome the rationale behind creating "controlled remote, rural and island localities" and the "Prejudice Test" However, I have grave concerns that the Test will not be applied until the PPC hearing rather than during the initial stages of the application process. This will mean dispensing practices will still have to endure several months of uncertainty. My previous partner resigned several months ago - citing the serial pharmacy applications as a major factor in his decision. Given the financial insecurity of my dispensing practice as a result of serial pharmacy applications I have been unable to recruit a new partner and for several months have had to work single handed with locum help when I can get it. The current problems in Millport are another example. This situation will be echoed all over Scotland - where we already have significant problems with retention and recruitment for rural GPs. The Scottish Government rely on loyal rural Dispensing GPs and their staff working under such intolerable conditions at their peril.

I am currently awaiting the judgement of the PPC hearing regarding the latest pharmacy application in Drymen. I hope very much that the PPC will reject the application. Regardless, while I value my pharmacy colleagues, I feel very strongly that the Scottish Government must begin to show that they value Scotland's rural dispensing GPs. I fear that the consultation proposals do not go far enough to protect dispensing practices and the Primary Care services they provide in remote, rural and island localities .

I would be pleased to come to discuss my views with you and your colleagues.

Kind Regards,
Jennifer Foster

Dr Jennifer Foster
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From: Foster Jennifer (NHS FORTH VALLEY)
Sent: 03 September 2013 12:25
To: Bruce.Crawford.msp@scottish.parliament.uk; Richard.Simpson.msp@scottish.parliament.uk; Alex.Neil.msp@scottish.parliament.uk
Cc: Hadden Evelyn (NHS FORTH VALLEY); Douglas Derrick (NHS FORTH VALLEY); Cumming Stuart (NHS FORTH VALLEY); Murdoch Peter (NHS Forth Valley); bkeighley@aol.com; lambieg@stirling.gov.uk; King James (NHS Forth Valley); alan.mcdevitt@btinternet.com; DPrince@bma.org.uk; andrew.buist@pearlmedical.co.uk; McLachlan Loraine (NHS Forth Valley); DPrince@bma.org.uk
Subject: Pharmacy Application Drymen

To All Concerned:-

I am emailing to advise you that Drymen Dispensing Practice is yet again under the threat of a pharmacy application - a mere 2 weeks after the last application was withdrawn at the eleventh hour due a problem with the shop lease.

There is a notice of intent to apply for a pharmacy licence at the same premises. I understand that the regulations require 20 working days notice of intent to allow public response.

Given this position in Drymen and the current situation within other Health Boards where pharmacy applications are threatening rural dispensing practices I wonder when the Scottish Government is going to respond to the Wilson and Barber Review, which called for a moratorium on such applications.

This is now a matter of urgency for Drymen.

There is no need for me to repeat the well-known arguments regarding the threat to services and the effect on GP retention and recruitment. My only partner has resigned citing the pharmacy application as a major factor in his resignation and it is not possible for me to recruit a new partner given the current uncertainties.
Can you confirm what effect a moratorium would have on an application if this had already been made to the Health Board? Would an application be stalled?
If the moratorium were to be called within the 20 working day intention notice period then I presume an application could not be made.

I urge you to consider the importance of this and to hasten any process required if this is possible.

Kind Regards

Jennifer Foster
GP Partner
Drymen Medical Practice