

## 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

It is important that there is stability of both NHS medical and pharmaceutical services in the community to ensure patient care and safety. There would be a requirement for GP Practices to provide evidence of how a new pharmacy contract would impact on its ability to continue to provide general medical services at its current level. The vision described in Prescription for Excellence can only be achieved through closer working partnerships between the professions. Helping to remove conflicts would aid this process. Prescription for Excellence describes another model to meet the pharmaceutical care needs of the community in rural areas without destabilising NHS medical services.

###### 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

Expansion and development of a village or urban area could affect the rural designation of a neighbourhood and/or the NHS services that may be required. A review of the designation at a minimum of every three years seems reasonable.

### **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

It is important that NHS Boards have the ability to discharge their statutory duty to provide both NHS pharmaceutical and NHS medical services and that patients have adequate access to both services. GP dispensing practices supplemented by a clinical pharmacist would allow for pharmaceutical care to be delivered in rural areas, but would not allow for the full range of NHS pharmaceutical services, currently delivered by a community pharmacy, to be provided.

## **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? No**

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

**The views of the community are welcomed, but it would be difficult for one individual to represent the views of the community when responses to the consultation provide an opinion both for and against an application.**

**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**

**The current regulations dictate a standard process for PPC hearings which is managed by the Chair who ensures that no one person or organisation is able to dominate the entire hearing. Guidance on being permitted to limit the time allocated to oral representations may be helpful to the Chair and may encourage the applicant and interested parties to focus on the salient points of their case. The Chair would still require to have discretion on any deviation of the ‘time limit’ to fulfil the requirements of individual/complex cases.**

**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

There should be a named person who will make the oral representations but allowing the person assisting to also speak as required would save time during the PPC Hearing. A person assisting must not appear in a capacity of counsel, solicitor or paid advocate.

**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?

No

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

There are concerns that if an applicant must first enter into a pre-application stage with the NHS Board this process would lack transparency and would suggest that the Board was pre-judging the application. Strengthening the role of NHS Boards Pharmaceutical Care Services Plans to reflect an assessment of service gaps and where need was most urgent would shift the procedure from one which is largely applicant driven. This process would not work if it was restricted by the current 'control of entry' process. The transfer of the responsibility to Health boards to identify pharmaceutical

service needs through the Pharmaceutical Services care Plan would be welcomed. There are concerns around the expertise required and the ability to standardise Pharmaceutical Care Services Plans to demonstrate unmet pharmaceutical care needs in a consistent manner throughout Scotland.

Only one public consultation should be necessary as this will prevent confusion with members of the public. The consultation process should be undertaken by the Health board and all the outcomes shared with the applicant who should cover the costs of the consultation. The format of the public consultation requires to be clarified in the Regulations.

**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

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

The views of the community are considered by the PPC as part of their determinations of the adequacy of existing NHS pharmaceutical services in/into the neighbourhood and the considerations of the Committee are recorded in the minutes of the Hearing. This proposal would aid transparency around consideration of the views of the community.

**[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

The viability of a proposed new pharmacy and of existing pharmacies providing NHS pharmaceutical services in/into a neighbourhood should be taken into account to ensure the security of NHS pharmaceutical services in the long term as required by the existing statutory test.

## 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

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

We agree with this proposal which fits with current Forth Valley practice.

## 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

This would ensure process is followed and reduce the risk of cases being reverted to NAP due to a process error and would provide the Chair of the PPC with a resource for legal advice regarding the application of the existing 'statutory test'.