

## 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 would encourage the synergistic working of pharmacist and GP as per prescription for excellence. We feel all patients should have access to pharmaceutical care and this should be available from registered pharmacy premises when it is required. Engaging health board pharmacists on a sessional basis may restrict this provision.

Any such "prejudice test" would require detailed and strict guidance for the PPC to follow. It will be very difficult for a PPC to make a reasoned judgement on the income necessary for a GP practice. Would the judgement be based on the cost to run existing services which may be enhanced, or based on the cost of what a standard practice for that sort of population would cost?

###### 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

No. The services provided by pharmacy are evolving rapidly. Populations can change rapidly. We feel that a three year review period is too long. We would suggest an annual review period. This also would reflect health boards review of their pharmaceutical care services plan.

**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**

Residents in rural areas should not be excluded from any aspects of pharmaceutical care and primary medical services and be provided with the same level of service as those living in other areas. This could be provided by enhanced use of community pharmacists who may not necessarily be sited on the patient's doorstep – they are located in the nearest towns where the patients visit regularly to access other shops and services. With the opportunities offered by communication through IT and through scheduled visits to the rural area the existing community pharmacy network could provide pharmaceutical care in a cost effective manner to this population.

**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**

This would be extremely difficult to action. We fully support the recognition of the communities’ views in a patient centred health service, however we are aware that communities are consulted in the consultation period, where they are given opportunity to be represented. Difficulties would arise in ensuring that they represented the total community and displayed no bias. The community representative may not have a full grasp of the regulations. It would be probable that there would be several candidates, with conflicting views. It would be difficult to ensure a fair process of selection as it would be inappropriate for the health board to select a candidate, this could be perceived as prejudicial. The introduction of the possibility of such bias would without doubt generate grounds for appeal. We feel that PPC’s could better explain how they have considered the views of the public in their deliberations, but for one person to represent the differing views of different patient groups in a balanced way would be impossible.

**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**

No. PPC hearings can affect the way future healthcare services are provided in an area and determine the future career of a pharmacist. Limiting the time the applicant has to present their case may result in vital parts of their evidence being excluded and would generate grounds for appeal. Similarly interested parties should be allowed to fully present their evidence. We feel that strong chairing and guidance would allow avoidance of repetition in presentations. We feel that in most other situations (professions and disciplines) where vital decisions are being made it would be unusual to limit the time of presentations. Also presentations may need to be changed during the actual PPC hearing depending on what has preceded.

**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**

Yes. However, only the applicant should present the case. This applicant presenting should not change. Only one nominated person should be allowed to ask questions. Those assisting should be allowed to speak only in response to direct questioning.

**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

No. This would be extremely difficult as at present the pharmaceutical care plan does not reflect areas of unmet need. If board officers were to make this decision they would be influencing the legal test decided by the PPC. Also at this early stage there has been no input from the interested parties.

We agree with the principal of attempting to raise awareness to as many members of the community as possible of a pharmacy application. How this could be carried out is problematic. It would be extremely difficult for the applicant and health board to ensure they have found every local news sheet available to that community. Should interested parties be asked to do the same? What about other media forms e.g. local radio? This may also incur significant costs to applicant/ health board.

### **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

Yes. At present it is felt that the PPC minutes give a true, honest and fair reflection of the proceedings. If by providing more information to the public is helpful to them understanding the decision made by the PPC we would fully support this. This should be applicable to evidence presented by both the applicant and interested parties.

### **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

No. The PPC does not have the expertise to determine the financial viability of a new community pharmacy. If this was considered they would also have to take into consideration the financial viability of the other pharmacies who may be affected by the application. Financial viability may vary in opinion from contractor to contractor. There may also be a difference in opinion of viability between large corporations and small independent contractors. There is also a risk that if the PPC was to deem a contract as viable and it then proved not to be, this would undermine decisions of the Committee.

### 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

Yes. At present there is no guidance on time scales. We would welcome this and feel the time scales provided are reasonable. As stated we would obviously support the understanding that under certain circumstances these time scales could be altered.

### 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 agree that an independent legal assessor is present during PPC deliberations. We feel that the independent legal assessor should have a good knowledge of the regulations and be ' up to speed' with the specific detail of the PPC they are attending. It may be best if this was the same person at all PPCs.

To compliment the legal assessor we feel that the presence of board officers at PPC hearings is vital in supplying expert knowledge to the Committee.

### **Additional Points to Consider**

The consultation exercise provides opportunity to address issues which have been identified through the day to day processing of applications and which require clarification/amendment to simplify or make the processing of applications more robust and transparent.