

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

The concept of a prejudice test is good. In this case prejudice being defined as arising where the pharmaceutical services (PS) or primary medical services (PMS) that people can rightly expect to be provided by the NHS would, in some respect, cease or otherwise be curtailed or withdrawn without the replacement of those services potentially affected.

It is right that an analysis to confirm that the reasonable expectations of the public to obtain PS or PMS is carried out.

The test however should not be carried out with a presumption of the status quo remaining. The analysis should be involved enough to question the concept that GP practice income received for dispensing should not be subsidising the delivery of PMS. It may be that the "test" should put the onus on the medical practice to explain why loss of dispensing income would destabilise their delivery of PMS.

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

Formalised review at at least every 3 years or on an ad hoc basis in response to changing circumstances seems very reasonable. The demarcation of “controlled remote, rural and island locality” needs to be carefully defined so it is clear in all minds and practical to apply.

It would be useful to formally review the patient list against which each GP practice dispenses for at the same frequency given that the GP should only dispense for those patients who would otherwise have difficulty accessing a pharmaceutical service, circumstances which may impact upon this list would be a change in patient address, the opening of a local community pharmacy nearby etc. hence periodic review is appropriate.

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

This concept will aid patient care as the GP dispensing service would be augmented to include other pharmaceutical services.

Clarity of the service specification the directly employed pharmacist would be expected to deliver is required including the flexibility to include and accommodate locally negotiated additional services. The concept being that patients living in remote, rural and island areas should have access to NHS Pharmaceutical Services that are no less adequate than would be the case in other parts of the Health Board..

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

The concept does facilitate local representation. The explanatory notes give several examples of who the local representative may be.

The legislation would need to be very carefully framed to ensure that the system for identifying the appropriate person is both fair and practical. Indeed HBs have experience of communicating with local Public Partnership Forums (PPF) it would be advantageous to retain the experience of such interaction which would allow PPF members to build up knowledge of the processes and be best equipped in representing local views. This would also assist the HB having one group to communicate with not several different ones dependent upon the neighbourhood in which the pharmacy is proposed.

If not identifying one group it may also be necessary to define whether that local representative has a duty of contributing the (spread) of local opinion or

of their own opinion. Furthermore, consideration should be given as to whether 30 days allows sufficient time for that individual to gather local views given that the HB is afforded 60 days consultation period. The difference between the local representative and the other interested parties being that the local pharmacists tend to only speak for themselves or provide a corporate view which allows a speedier response.

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

A standard framework would be valuable and provide consistency of approach countrywide when it comes to issues such as submission dates for additional supporting material, provision of “pre-prepared” statements in advance, acceptability of photographic evidence, additional statistics, letters of support which were not available or provided at time application was submitted, which could allow appropriate circulation to all parties prior to attending hearing. Clarification around whether this would also be appropriate when decisions are remitted back to the board i.e. does the PPC need to hear the application afresh on the information available at the time of original submission or on most up to date available information at subsequent hearings.

However, it must be recognised that each application has its own individual circumstances and the standard framework must be flexible enough to accommodate these.

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

The current system is sometimes farcical with “stage whispers” between interested parties and their assistors. The framework for how hearings should be conducted should also include clear guidance on who can, and importantly cannot, assist the applicant and interested parties.

Proposals 5 & 6 together should inform a framework for ensuring the hearings can work well.

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

This is a very complicated concept given that the PPC makes the decision on behalf of the Board, who requires to be seen as impartial for every application. A discussion between HB staff and potential applicants would compromise this impartiality and could be misled as the HB endorsing the need for an additional pharmaceutical contract.

We agree however that HB should be proactive in planning pharmaceutical service provision in its' area served. The should be achieved via their PCSP. Applicants should be able to interpret PCSPs and use it to argue for their case. This requires PCSP to be developed without specific applications in mind and retain impartiality of HB in it's formulation.

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

This is currently the case in the minutes which are made publically available. Perhaps a separate section dealing specifically with the public comments would be valuable in focussing the minds of the PPC members to the issues highlighted by public representatives and aiding communication and understanding of the reasoning behind the decision.

This is especially relevant if the public representative is to be given the right of appeal as per proposal 4.

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

Sustainability is a critical issue.

The PPC requires to consider whether the application would “secure” an adequate pharmaceutical service therefore it is important that the applicant can demonstrate they have a robust proposal, as well as the interested parties being allowed to air any concerns over the affect any additional contract would have on destabilising existing services.

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

A timeframe for expected outcome would be beneficial to all concerned. Given that applications are granted only if it is necessary or desirable to secure adequate pharmaceutical services in the neighbourhood of the application, it is clearly an important decision for the local population. As such it deserves to be made in a reasonable time scale.

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

This is valuable. A secondary benefit would be the expertise such person(s) would develop which would aid training of PPC members. There would need to be a sufficient pool of such a resource though to accommodate the needs of multiple HBs particularly that it is conceivable that demands would be made simultaneously by Boards who require to comply with the timescales outlined in Proposal 10.