

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

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

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

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

I strongly disagree with the introduction of a community representative as an interested party, for many reasons. I believe that at present the community voice is represented through the several measures currently in place in the current regulations.

There are currently two open public consultations, that of the applicant (20 working days) and that of the health board (60 days). These are open and available for all to respond. Elsewhere in this consultation there is a proposal to strengthen the advertisement of these, I agree with this and believe this to be a sufficient change to ensure the local community is aware of the application and are given the opportunity to respond.

As a matter of course, health boards routinely include community councils as an interested party and so, again, providing another opportunity for community representatives to respond.

The board consults within a 2 Km radius of the proposed site, to those whose interests may be significantly affected by the application. Therefore when selecting this community representative, this radius should also be applied. If we take the example of this representative being from a community council, this creates problems as to which community council should be appointed the representative. In a 2Km radius there can be at least three different community councils, with potentially opposing views. It should not be the role of the health board to select which view should be represented. This would introduce huge bias to proceedings.

In any case I cannot see how it would be possible for one person to truly represent the view of an entire community, whether it be the most immediate community (nearest the application site) or the larger community (within a 2Km radius) as communities inherently have divisions of opinion. It would be very difficult to detect if this representative is indeed conveying his/her own viewpoint. To truly represent the voice of a community, every member of that community is entitled to hear exactly how they are to be represented and be given opportunity to agree/object to this.

As there are already two public consultations in place I suggest that this absolutely would suffice. I believe in considering the evidence from each of these consultations the community view is justly represented. It would be futile and indeed precarious to introduce the potential of such bias and prejudice to proceedings.

I strongly believe that the current regulations (with regard to interested parties) should remain as the status quo, and I believe that the inclusion of a community figure could severely jeopardise the veracity of the whole process.

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

I believe that PPC hearings should follow a standard process, however, it is my view, that the proposal for a time limitation allocated to each party is illogical.

In many cases the interested parties provide a wealth of information to the PPC in order to ensure they have all the relevant facts to make a fair a correct decision. Limiting time could create a situation where vital information is not presented.

The presentations at each hearing will vary widely, this is in part due to the fact that the evidence for each application will also, to a great extent, be varied. Therefore if a time limitation were to be imposed, this could in turn impinge on a true representation of the evidence.

I understand that there may be cases where one interested party takes more time than others at a hearing. However this is often the nature of deliberations with two opposing viewpoints and it can be the case that the dominant viewpoint inherently has more evidence to present/discuss.

This process has a significant impact on the livelihoods of those involved and as such should be taken seriously and given as much time as is required. I believe it is the responsibility of each interested party to present as much information as possible to ensure their view is fairly considered. Any time limit imposed could result in a misrepresentation and ultimately an unjust decision.

It is the duty of the chairperson to fulfil his/her role in appropriate chairing of the meeting as they see fit.

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

I agree with this, however I think that this should be limited to assistance with the answering of questions and not assisting with the presentation. If this limitation to questioning is not imposed this could potentially exacerbate the issue identified in proposal 5.

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

In theory a pre-application stage would reduce the hearing of frivolous applications. As contract applications and hearings are such a costly process in terms of money and time for everyone involved (applicant, interested parties, health board) I agree that due consideration should be given to an application from the outset as to whether it should be heard in its entirety. However, this would require much further clarification as to how this could be approached. This could introduce the potential for bias from the outset and result in board officers making the decision rather than the PPC.

I agree with strengthening the advertising of the public consultation, however I think it would be difficult and costly to advertise in all circulating local news free-sheets and newsletters and more guidance must be provided on this.

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

I agree with this proposal, although from my experience, I believe this to already be the case in PPC deliberations.

[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

The current regulations refer to the consideration of viability:

“A possible reduction in income by an existing community pharmacy caused by the opening of an additional pharmacy, is not itself a relevant consideration, unless it could affect the continued viability of the other pharmacies in the neighbourhood-thus affecting the security of adequate provision of pharmaceutical services.”

It is unclear as to whether this proposal is in addition to or in place of this. I believe the viability of both existing and new contracts should be considered. However it will be very difficult to measure any potential viability of a business that does not yet exist and would rely merely on anecdotal evidence provided by the applicant. For this reason a focus should be placed on existing contractors who have an established viable pharmacy and any decision made should ensure their continued

viability.

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

I agree that a shorter timescale for decision making should be adopted. However this timescale should take into consideration the maintenance of a quorate PPC and ensure full representation of both the applicant and those interested parties wishing to attend.

From personal experience, extended timescales add further to the great deal of anxiety and indeed cost associated with this process of control of entry. I was disappointed, however, when reading the reasons behind this proposal, it was stated "the overall process can be a great source of anxiety for the community and the applicant". No mention is made of the interested parties. I feel the lack of consideration given to interested parties displays a level of bias in favour of the applicant. This is an extremely worrying, costly and unsettling process for existing contractors in addition to the applicant and community. This lack of recognition is of concern, it is inconsiderate and somewhat disrespectful to existing contractors who have been or have yet to be involved in this process.

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

I disagree with this proposal. I believe that there should be the presence of a board officer, who is in an ideal position to advise on procedure in their capacity. I do not believe there is any evidence to suggest that they would in anyway influence the decision of the PPC, they are a trusted member of the health board.

A legal advisor may not be familiar with the specific applications and any relevant history. This would be a costly and unnecessary resource.