

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

While Island localities are readily defined the remoteness and rurality of mainland locations are matters which form most debate in Pharmacy Practices Committees while considering an application for a new pharmacy, in particular defining the neighbourhood and adequacy of existing services. The PPC, applicant and sometimes each of the interested parties may have a different interpretation or definition of this.

If the Boards are to designate areas as remote or rural then a natural sequelae is that they are also given the power to determine what a neighbourhood is in ALL applications for a new pharmacy in advance of any consideration of the submission by the PPC, however this could be interpreted as undermining the independence of the PPC who currently determine the neighbourhood.

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

We agree that where an area has been designated as a “controlled remote, rural and island locality” that this should be subject to review on a regular basis. We contend that this should link to the Pharmaceutical Care Service Plan (PCSP) which is reviewed annually.

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

We agree that the equity of access should be available to all patients within NHS Scotland; however the challenges of delivering personalised care to remote populations should not be underestimated. Such requirements would also need to be met flexibly- contracting of the pharmaceutical care may be appropriate in some areas, while directly employed staff could provide the service in other areas. Creative use of technology may provide solutions that meet the needs of patients.

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

There is currently a process of active community representation and engagement during the application process. Community Councils and other known groups within communities are written to directly as part of the Board consultation process at the same time as adverts seeking views are placed in the local press.

Experience has shown that a lack of understanding of the legal framework around the pharmacy applications legal test of necessary or desirable has resulted in representation supporting applications for new contracts based on convenience rather than necessity for service provision.

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

We do not agree with this proposal. The applicant always has more to say than the interested parties unless one or more of the interested parties are extremely experienced in the 'debating' process. All parties are always given a fair hearing and are asked if they feel that this has been the case before the closure of the open part of the meeting. Placing a time limit on a presentation could be cited as a reason for appeal if the aggrieved party feels they have been disadvantaged.

It would be helpful if chairs of PPCs could be provided with advice on the correct balance that should be achieved and a standard framework would be valued.

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

We do not agree with this proposal as we feel the current situation allows for a structured approach to representation with the applicant etc being allowed a fair hearing, with support from their assistant where appropriate. Allowing assistants to speak as well could prolong the hearing without adding value to the process.

We would emphasise that the current regulations that preclude the involvement of a solicitor, council or paid advocate from addressing the PPC should be retained, recognising that there may be situations under the Disability Discrimination Act where advocacy may be permitted.

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

We disagree with this proposal as in our view it would be inappropriate for a Board officer to be involved in discussions about potential contract applications as this could be seen to undermine the independence of the Pharmacy Practices Committee.

Recent experience of NAP decisions indicates they could interpret the involvement of a Board Officer at a pre application stage as introducing bias

into the process.

There is already a requirement for public consultation by both the applicant and the Board so it is difficult to comment on what additional benefit would be seen from the proposal.

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

Reports of PPC hearings already include details of the consideration of public consultations as well as the stated views of the Area Pharmaceutical Committee and General Practice Sub Committee. Specific guidance on such matters would need to be issued to PPC chairs to ensure consistency of application across Scotland.

Experience of the current process is that consultations in conurbations tend to produce little response from the public, while those in smaller communities provoke more responses, with a strong indication that the applicant is actively lobbying the community with multiple similar representations/responses being received from different individuals.

[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 PPC will already consider likely viability of a contract application as part of their deliberations as they are charged with ensuring any application would SECURE adequate pharmaceutical services. If the PPC were not satisfied that the application would survive and thrive as a business it would not support the contract application as doing so could have a detrimental effect on provision pharmaceutical services.

The Pharmacist members of the PPC are often experienced contractors themselves and are able to advise the PPC of the potential ability of any contract application to secure adequate pharmaceutical service both from the applicant and existing neighbouring pharmacies.

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

We can aspire to these ambitious timelines but the challenges of co-ordinating all the interested parties, PPC members and availability of suitable venues for hearings make this extremely challenging. Many Boards absorb this complex area within a team which covers all primary care contractors and the logistical and resource challenges in achieving a fixed timescale should not be underestimated.

Allowance would also need to be made for breaching of the timescale due to cancellation of hearing at short notices to due to adverse weather, illness of a majority of attendees etc.

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 with this proposal but would require clarity on the detail. It is important that this proposal does not result in increased costs for Boards, and we would welcome confirmation that either this will be centrally funded or provision made to Boards to defray costs.

Additional standardised training for PPC chairs would also be welcome, particularly in how to formulate a response to an application.