

Consultation Response Form

Volume of applications/ repeat applications (paras 32-40)

37. Views are invited on these issues/ proposals. Do you believe that an NHS Board should be able to consider applications at a first stage and decide whether or not a full PPC is required or whether they can decide that current provision is adequate?

We would support the introduction of a 'first stage' provided it is methodical and robust. Those affected by the decision must be consulted and their views fully considered. There should be a bias towards convening a PPC meeting if there are factors relating to the adequacy of current or future service provision that require further consideration, i.e. the objective of the 'first stage' process should be to clearly demonstrate that a meeting of the PPC is not necessary and a meeting should be convened if that conclusion cannot be reached.

38. Whether or not a first stage is introduced, Scottish Government proposes to introduce an amendment which would allow NHS Boards to consider applications and/ or appeals which have already been rejected in a specified time period as a relevant factor when considering the question of adequate provision. Do you agree with this proposal?

Yes. The onus to demonstrate that there have been, or will be, changes in the need for pharmaceutical care services within a neighbourhood should rest with the applicant.

39. Do you agree that 12 months is an acceptable length of time (since a previous application was rejected/ failed at appeal) prior to which an applicant would be asked to establish that a significant change in the area/ neighbourhood had occurred?

Yes. Again, we emphasise the need to consider future developments, such as housing expansion, that could significantly affect the need for pharmaceutical care services within a neighbourhood because it can take several months to provide services following a successful application. The current regulations place a time limit on provision of new services that could be a useful guide to the timeframe for considering probable developments.

40. Scottish Government proposes an amendment to require Boards to consider their Pharmaceutical Care Services Plans as part of their consideration as to the adequacy of current NHS pharmaceutical services in an area. Do you agree with this proposal?

Yes, the Board's Pharmaceutical Services Care Plan (PCSP) should be part of the consideration. This does, however, place an increased responsibility on the Board to ensure that its PCSP is robust, detailed, and frequently reviewed.

Relocations (paras 41-45)

43. The Scottish Government proposes to alter the Regulations such that they refer to “no significant affect” and thus allowing room for Health Boards to consider this freedom in more circumstances. Do you agree with this proposal?

Yes. The current wording is nonsensical in that it precludes a relocation being regarded as ‘minor’ if it results in any improvement in the quality of services provided from the new premises. As a result, a contractor wishing to move a short distance to premises providing enhanced facilities must apply for a new contract in the same area as the existing premises, which is then likely to be rejected because the existing provision is adequate. This is a deterrent to those contractors who are unable to upgrade existing premises to improve access to and facilities for service provision.

45. Scottish Government proposes to alter the Regulations such that where a minor relocation is approved, the existing entry on the pharmaceutical list will be amended, rather than result in a new entry. Do you agree with this proposal?

Yes, for the reason stated in the consultation document.

Notice of a pharmacy application (paras 46-49)

47. The Scottish Government proposes to alter the Regulations to:-

- a) ensure that dispensing GPs are informed of an application in the locality where they operate, and
- b) ensure that CHPs are informed of applications.

Do you agree with these proposals?

We agree that doctors in dispensing practices that would be affected by a successful application for a contract to provide Pharmaceutical Care Services should be informed of any such application, but the right of representation at PPC meetings should remain with the Area Medical Committee. We also agree that local CHPs should be informed of any application for a contract to provide Pharmaceutical Care Services, but it would be illogical for the CHP to make representations to the PPC because the CHP is part of the Health Board on whose behalf the PPC is acting.

49. The Scottish Government will continue to consider [public consultation arrangements] and whether any other changes are necessary in the future. Your comments are welcomed on the issue of public consultation. (Para 48 refers)

We support the widest public engagement in the development of the Health Board's PCSP so that it fully reflects the needs of the local population and, as noted above, consideration of the PCSP as part of the contract application process. Public involvement in determining individual contract applications needs to be informed by a clear understanding of the process, the nature of the decision to be taken by the PPC, and the evidence that will help the PPC to reach a well-informed conclusion. Otherwise, there is a risk that public involvement is biased towards or against a particular applicant, and of disappointment with the outcome.

Membership of PPCs (paras 50-54)

53. The Scottish Government therefore intends to remove the need for PPC nominations to be sought from specified bodies/ contractor groups. Rather, we intend to alter the Regulations such that a pool of PPC nominations is populated by Boards. Do you agree with this proposal?

We support retention of the current PPC composition, which has knowledgeable input from Health Board, lay, contractor and non-contractor pharmacists. We would need to be assured that any changes to the process for nominating PPC members would retain the current level of professional and business expertise, and ensure that nominees do not have conflicts of interest and are seen to be independent. It is not clear whether each Health Board would form its own pool of nominees or there would be a national pool of Health Board nominated people. Further discussion on this issue is required.

54. Likewise, a question was raised as to the necessity of the specific provision which requires that lay members must not be (or have been) health professionals. Indeed, it has been suggested that representation of another health profession could offer a helpful and complementary view of the decision being made. Comments are sought on this issue.

We strongly support the existing requirements in relation to lay members of a PPC. Lay members rightly have a crucial role in the decision to award a contract and it is essential that they consider the information provided to them as representatives of the public, not in an ill-defined, dual public/professional capacity. In addition, PPC decisions have major service, professional and financial implications for pharmacists and pharmacy contractors. Any perception of interference or influence by another health profession would damage the credibility of the existing process, potentially leading to an increase in legal challenges.

The statutory test – ‘necessary or desirable’ and related PPC processes (paras 55-56)

56. The Scottish Government will consider what guidance can be provided in light of responses to this consultation. We will also continue to explore those other related issues including training needs for PPC members and discuss this with Boards in due course. Comments are welcome.

PPCs take important decisions on behalf of the Health Board so it is important that they are supported to reach straightforward conclusions following due process. Guidance and training, particularly for PPC Chairs, would improve the quality of decision-making and reduce the apparent inconsistencies between the conclusions reached by different PPCs within a Health Board and across Scotland. This would reduce the number of repeat applications and appeals, which are often based on the hope that a different PPC or NAP may reach a different conclusion on, essentially, the same information.

Appeals Process – the National Appeals Panel (NAP) (paras 57-65)

59. The Scottish Government proposes to strengthen the appeal process such that it can divert more applications back to the Board and, for example, request that they remedy any procedural issues. Do you agree with this proposal?

Yes. This would emphasise the responsibility of the Health Board and its PPC to follow correct procedure.

62. The Scottish Government proposes a change to the Regulations which would result in only the applicant themselves having a right to appeal the decision of the Health Board/ PPC in relation to their own application. Do you agree with this proposal?

No. This would effectively deny the right of an affected individual or corporate body to challenge a clearly perverse or incompetent decision by a PPC, unless they had the resources to appeal to the Court of Session. However, it may be possible to devise an acceptable 'first stage' appeal process that would enable the NAP to reject an appeal from a non-applicant if it was not well founded, without the need to hold a NAP meeting. Further discussion on this suggestion would be helpful.

65. The Scottish Government proposes an amendment requiring the NAP to hear representation from affected Boards at NAP hearings. Do you agree with this proposal?

No. Hearing an appeal against the decision of a PPC needs a fresh approach to the evidence. There is a serious risk that a NAP receiving presentations from affected Health Boards would focus on their justification of the PPC decision rather than the merits of the information presented by the appellant and other parties. An analogy would be having the trial judge presenting at an appeal to the High Court. If, as is proposed, the NAP will be able to refer matters back to the Health Board it is important to maintain a clear distinction between their respective roles.

Membership of the National Appeal Panel (NAP) (paras 66-69)

68. The Scottish Government proposes to alter the composition of the NAP. We are minded to do this with a view to reducing the number of members and with a view to removing the need to seek nominations from individual organisations. Likewise, we are keen to explore the potential of the membership including wider representation, although the consideration will need to remain in relation to NHS pharmaceutical services. We would be keen to hear views on these proposals.

We would be prepared to consider detailed proposals for reducing the number of members of the NAP and for changing the mechanism for identifying suitable people. However, the current composition has been accepted for many years and is supported by the profession. The benefits of any proposed changes would have to be justified.



RESPONDENT INFORMATION FORM

Please Note That This Form Must Be Returned With Your Response To Ensure That We Handle Your Response Appropriately

1. Name/Organisation

Organisation Name

Royal Pharmaceutical Society of Great Britain

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

Braddick

Forename

Lvndon

2. Postal Address

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3. Permissions

I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

- (c) The name and address of your organisation *will* be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your response to be made available?

Please tick as appropriate Yes No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate Yes No