

Independent scrutiny of NHS Boards proposals for major changes in local NHS services

Please write your response here (please continue on a separate sheet of paper, if necessary.)

Question 1: Do you agree that an expert panel is the most effective way to provide independent scrutiny? If not, what would be your preferred choice?

We agree that an expert panel would be an effective means of providing independent scrutiny. Preparation of, and support for, chairs and panel members to undertake their roles is of crucial importance if they are to be enabled to engage in objective challenge and scrutiny of such major decision-making within the NHS in Scotland. Advice on what would be considered to be "necessary expertise" of potential panel members would be useful for any organisation which would be nominating members.

Question 2: Do you agree that the role of the panel should be to assess the safety, sustainability, evidence-base and value for money of NHS Boards proposals for major changes to local NHS services?

We agree that this would be an appropriate role for the expert panel and support the proposal at Section 22 on page 12 that "Each panel would focus primarily on the local circumstances of the area concerned, but would be expected also to reflect a consistent policy approach to the design and delivery of services across Scotland". Also of significant importance would be the aim to "ensure that the panel was able to provide effective independent scrutiny, without adding unnecessary delay or complexity into the decision-making process".

However, we believe that further thought needs to be given to the work of the Panel, and how it will report. Major service changes are usually complex, and the evidence and its interpretation are not straightforward. Evidence does not speak for itself and normally will be open to interpretation. What is important is that an independent panel makes sure that:

- *All reasonable evidence is considered*

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- *There are opportunities for anyone to submit evidence and opinions for consideration*
- *The interpretation put on the available evidence and conclusions drawn are reasonable*
- *There is a general consensus or weight of opinion nationally (or indeed internationally) that the interpretation(s) drawn is (are) valid. (In other words, local clinical and management opinion is not sufficient without reference to there being a wider level of support to the way forward.)*
- *The paramount importance of patient safety and avoidance of risk is made explicit*
- *The final presentation of a case for change treats the evidence in a balanced way and clearly links the recommendations made to the evidence considered.*

Question 3: Do you agree that the chair should be a lay person appointed by Scottish Ministers?

There needs to be further clarification about what is meant as lay in this context. There would be advantages in the panel chairs being from outside the NHS and appointed by Scottish Ministers through the public appointments process. They would clearly have to have a certain expertise in the tasks of the panel, and previous expertise / experience relating to the service area(s) being scrutinised might prove very helpful.

Question 4: Do you agree that the panel should have a lay majority among its members?

We propose that it would be more appropriate to have equal numbers of lay and professional panel members. The chair would be expected to act as the balancing element between lay and expert perspectives. However, we also strongly believe that it is important that panels are not perceived in a dichotomous manner – the public in contrast to the expert. This would be unhelpful. The important point is that a number of people with a range of perspectives, experience and knowledge come to a view about the validity of the conclusions drawn about major service change in terms of the evidence. The main consideration therefore is deciding the range of perspectives necessary to be included in each panel, and then appointing on this basis. Indeed, the terms lay and expert may usefully be avoided. It will also be important to ensure that panel members do not only focus on issues of special

personal interest but reflect a broad perspective in their scrutiny of health board proposals.

Question 5: Do you agree that the panel should assess the evidence and options during the process of public engagement prior to consultation, and provide a commentary on these that would be available to the Board and to Ministers in reaching decisions?

We agree with this proposal as it will be helpful to health boards in determining courses of further action and in securing agreement on their proposals for major service change.

Question 6. Do you have any other comments on how independent scrutiny should be carried out, or on the guidance on “Informing, engaging and consulting the public in developing health and community care services” at Annex 3?

We have a number of additional comments on the conduct of independent scrutiny:

- *There should be every effort to make sure that there is consistency in the approaches and method of working of panels*
- *Standards can and should be developed about how to acquire, use analyse and interpret evidence and draw conclusions from it. This would act: as a framework for Boards to use; a basis for panels to assess a process; and a means for the public to gain reassurance.*
- *The panel should comment on all important evidence – not just that used to support a recommendation - to help a wider understanding of why certain proposals put forward by the public should not legitimately be pursued.*
- *There needs to be developed a clearer understanding of what constitutes major service change. In the long run, Boards should be encouraged to adopt common agreed standards to all of their decisions on service change, of course adapted to take account of the scale and complexity of the changes under consideration.*

- *It should be made clear that a panel's conclusions are solely about the process of decision making, not the decision itself. A decision can be 'correct', but it may have been reached without the proper process which is central to public involvement, and openness and transparency. It is also important on the same grounds that it is always very clear that if a panel finds against a review process, it does not necessarily mean that any other view is necessarily a valid alternative proposal. It should mean further work is undertaken on the review of services, and this should be done to particular standards which the panel should specify when reporting back.*
- *Consideration should be given to how a panel might address integrated health strategies covering a number of different services in an interconnected way. In particular, there should be clarity about the role and remit of a panel when one service change leads to the freeing up of buildings/resources to support introducing a new service.*
- *Early involvement of the public and representation of the public view would be a particular strength of this approach to scrutiny.*
- *The proposed role of the Scottish Health Council in assessing the quality of an NHS board's approach to public involvement would be helpful in demonstrating how robust the appraisal and decision-making processes are at local level in this regard. An explicit set of standards is essential to make this work.*
- *Boards must follow proper processes on deciding changes to services – especially those affecting many people – but the work of panels must not be seen to usurp the legitimacy of Boards either. Independent scrutiny should be about Boards reassuring themselves that they have followed a proper process – something NHS Tayside has done on a smaller scale over several major changes – but remain free to weigh up the various views and reach a decision on behalf of local people. Otherwise the value and standing of a Board, and non-executive members in particular, will be undermined.*
- *It will be important to the success of this scrutiny process that respective functions of the Scottish Health Council and each expert panel are clear and adhered to. The intention for the*

Scottish Health Council to develop a set of criteria to help judge whether or not a proposed service change is “major” is welcomed.

- *Independent scrutiny should apply to national decisions, e.g. neurological services, but the implications of this will have to be thought through.*
- *It should be clearly stated that independent scrutiny should also apply when major service change is not proposed after a service review.*

Question 7 Do you have any other comments on either the consultation process or your preferred choice?

There is no doubt that independent scrutiny has the potential to be a very valuable system of assurance and reassurance to the public. It could also positively help Boards and others by developing a ‘case-law’ approach to undertaking reviews. NHS Tayside Board fully supports the concept but believes that further thought needs to be given to make sure that it works effectively. Independent panels will themselves have to be able to withstand challenges to their integrity and independence if they endorse a process for deciding service change against the wishes of a public campaign. This requires thinking through their operation to look at their implications before the system is up and running. This consultation process should be valuable in this regard.

Thank you for taking the time to participate in this consultation. We will acknowledge receipt of your response.