

# **Local Healthcare Bill**

## **Scottish Government Consultation**

### **Response from Fairshare**

#### **Scotland's Campaign for a Better Democracy**

Fairshare welcomes the opportunity to contribute to this consultation on the proposal to introduce legislation to provide for direct elections to NHS territorial Health Boards in Scotland. We shall be pleased for this response to be made public without reservation.

Fairshare has no policy on the question of whether any members of NHS Boards should be directly elected. Our concern is only that, if such elections are introduced, the voting system used should be one that will give fair and balanced representation of the local community each Health Board would be elected to serve. Accordingly, we offer no comment on any of the questions in Section 1 of the Consultation Paper, nor any comments on the questions in Section 2.4 on pilots and Section 2.5 on accountability.

**Q9. What eligibility criteria should candidates meet (e.g. Should they be resident in the Board area? Should there be any other qualifications?)**

It would be a reasonable requirement that all candidates should be resident within the area covered by the Board to which they sought election. It is most unlikely that any special expertise would be lost to the electors of a particular area by this restriction.

**Q10. How could equality and diversity of candidates be promoted?**

All relevant media should be used to alert all communities to the call for candidates: radio (local and national), TV, newspapers (local, national and free-sheets), websites, and notifications and e-mails direct to Community Councils and other local community groups.

**Q11. Should candidates have to submit profile statements and declare any interests and/or relevant qualifications / skills / experience, for example membership of a political party or a pressure group?**

Each candidate should be required to submit a profile statement that should include the declaration of any relevant interests and the qualifications, skills and experience that the candidate has and considers relevant to the position.

It would be reasonable to require candidates to declare membership of any registered political party of which they had been members during the

previous five years. This would be in line with the current Declaration of Political Activity that all appointees to public office are required to make. We note, however, that appointees to public office are required to declare "political activity" that goes much wider than membership of a political party, specifically, if they have at any time during the previous five years:

- obtained office as a Local Councillor, MSP, MP, MEP, etc;
- stood as a candidate for one of the above offices;
- spoken on behalf of a party or candidate;
- acted as a political agent;
- held office such as Chair, Treasurer, or Secretary of a local branch of a party;
- canvassed on behalf of a party or helped at elections;
- made a recordable donation to a political party.

Consideration should be given to including all of the above in any declaration of "political activity".

The question about including a requirement to declare membership of "a pressure group" is much more difficult to answer. Would all "pressure groups" be covered or only those groups deemed relevant to the Health Board's activities? Who is to determine what is "relevant"? Maybe this should be left open to the individual candidates, in same way that there is a 'catch-all' category in the Declaration of Political Activity:

"undertaken any other political activity which you consider relevant."

These profile statements should be distributed to all electors along with background information about the Health Board.

**Q12. Is there a case for excluding candidates standing as a representative of a political party?**

While there may be a case for prohibiting registered political parties from nominating candidates, it will be impossible in practice to prevent any candidate from acting as a "representative" of a political party.

**Q13. In what circumstances might someone be disqualified from seeking election?**

The same disqualifications should apply as currently apply to candidates for election to a Local Authority Council and these should be extended, *mutatis mutandis*, to include, for each Health Board, comparable employees of NHS Scotland, of the relevant Health Board and of any organisation funded by the relevant Health Board.

**Q14. Who should be allowed to vote in the election? Should the same rules as apply to local authority elections be followed?**

Electors should live at an address within the relevant Health Board area and be on the register of Local Government electors relevant to that address.

**Q15. How often should elections be held, and when? Local authority elections are held every 4 years. Should elections to NHS Boards follow the same pattern?**

Current appointments to Health Boards are normally for periods of four years and Local Authority and Scottish Parliament elections are held every four years. It would thus seem logical and appropriate to hold Health Board elections every four years.

If any future Health Board elections were held on the same day as Local Government elections (see Q23 and Q33) that would automatically provide a four-year cycle. There could be some advantages in holding these two sets of elections on the same day, particularly in clarifying in the minds of voters the respective roles of the two sets of elected members. There is evidence from the 2007 Local Government elections that in some LGAs these roles were blurred when "Save our local hospital" candidates stood for election to the Local Authority Councils and some were elected on that basis.

If the Health Board elections were exclusively by postal ballot, we would recommend that Health Board elections should not normally be held in the same years as Local Government elections or Scottish Parliament elections. As to the timing of postal ballots within the designated election year, the only restriction would be to avoid major holiday periods.

**Q16. Should directly elected members form a majority of the members on a Board?**

If the intent is to enhance local accountability, it would seem logical that the elected members should comprise the majority.

**Q17. Should the existing categories of appointed Board members (lay members, stakeholder members and executive members) remain in place?**

If the Health Boards are not to become unwieldy through size, it is difficult to see how all of the existing members could be retained. Stakeholder members and executive members have specific roles on the Board and so it would be logical to replace the lay members by elected members if the decision is made to introduce elections.

**Q18. Among the appointed "stakeholder" members on NHS Boards are local authority Councillors. What should their role be if directly elected members sit on Boards?**

Local Authority Councillors will continue to have a specific stakeholder role and their membership should be continued to fulfil that role. They should not then be expected to operate as representatives of local communities, but as stakeholder representatives of their respective Councils. However, it must be recognised that their role here would be quite different from their roles on the boards of other local service providers which had no elected members.

**Q19. Should NHS Board areas be divided up into electoral wards?**

With any voting system there is always a compromise between maximising the proportionality and diversity of representation on the one hand and guaranteeing local representation on the other. The greater the number of members elected together, the more proportional the representation will be to the wishes of the voters and the greater the potential for diversity of representation. For example, if five members are elected together, five different views may be represented, if that is what the voters want, but if only three members are elected together, no more than three different views could be represented no matter what the voters might want. It is thus desirable either that all the members should be elected together ("at large") or that any electoral wards deemed necessary for the Health Boards that cover the largest geographic areas, should be as large as practicable.

**Q20. Would the emergence of groups or individuals with particular views be a difficulty or a potential threat to good governance and direction of the NHS in Scotland?**

Such groups "with particular views" already exist and have been very active in Health Board politics in some areas. If elections are to be introduced, it will be essential to make sure that any such groups obtain their fair share, but no more than their fair share, of representation on the Health Board. Thus the choice of voting system is critical.

**Q21. Should safeguards be introduced to prevent unrepresentative / disproportionate representation of a political party or special interest group on a Board, and if so what form might such safeguards take?**

There will be no need for any artificial safeguards if the voting system is one that ensures fair and balanced representation of the wishes of the voters. See Q22.

**Q22. Would you favour a simple "first past the post" voting system, a proportional representation approach or another type of system?**

Under no circumstances should any form of "first-past-the-post" (FPTP) voting system be used, neither in single-member wards nor in multi-member wards. FPTP does not give fair or balanced representation of the wishes of those who vote. The evidence for this is overwhelming.

The single transferable vote (STV) should be used to elect all the elected members of the territorial Health Boards. Consideration should be given to dividing the largest Board areas into a small number of wards, each returning a minimum of five members. (See Q19.)

STV is a candidate-based voting system that provides the electors with the greatest choice in the selection of their local representatives. Those who vote can thus express their preferences for the candidates on the basis of the candidates' skills and experience, their expressed views on important health

issues, the locality where they live or on any other criterion that matters to the individual voter. With STV the candidates who are elected will be those who are most representative of those who voted. No voting system can do more.

STV is already used in Scotland to elect Local Government Councillors and will become increasingly familiar to electors. Detailed analyses of the 2007 elections have shown that Scottish electors coped well with what was for most of them, the first use of STV for public elections and they made effective use of the choices that the voting system presented.

**Q23. How should voters be allowed to cast their votes? By postal ballot or at a polling station? Or either, depending on the voter's choice?**

As noted at Q15 above, there could be some advantages in holding these elections on the same day as Local Government elections. Then electors would have the choice of voting by postal ballot or at a polling station.

If these elections were held separately it would be appropriate for them to be exclusively by postal ballot as that would maximise the opportunities for participation and minimise the costs (see Q33).

**Q24. Should directly elected Board members be remunerated? If so, at what rate – the same as appointed members currently receive?**

Remuneration at the same rate as appointed members currently receive would seem appropriate.

**Q33. Should NHS resources be used to support direct elections? What do you think would be a reasonable amount to spend on elections?**

It would seem reasonable that each elected body should bear the costs of electing the relevant members. However, compared with the present situation, that would involve a transfer of costs, because all the costs of making appointments to the territorial Health Boards are currently borne centrally. No estimate of those costs is given in the consultation document, but these costs will be significant and should be set against any estimate of the costs of the elections that might replace the present appointment procedure.

We are surprised that the cost of the initial elections across the 14 territorial Health Boards has been estimated at around £5M. If the elections were exclusively by postal ballot, we understand that the total cost, based on similar all-postal public elections in the UK, is more likely to be around £2M (including VAT) than £5M. This would include the production and distribution of ballot papers and candidates' profile statements, outward postage and reply-paid postage for the ballot papers and receiving and counting the votes under independent scrutiny. We have no estimate for the likely costs of holding these elections on the same day as the Local Government elections, but the total additional cost should be much less than £5M.

## Annex

### **FAIRSHARE**

#### **Scotland's Campaign for a Better Democracy**

**Fairshare** is a cross-party and non-party organisation set up in February 2001 to campaign for the introduction of the Single Transferable Vote system of Proportional Representation (STV-PR) for local government elections in Scotland. In January 2005 Fairshare extended its objectives to promote reform of the voting systems used for public elections in Scotland and specifically, to reform the voting system for elections to the Scottish Parliament through the adoption of STV-PR. Fairshare is constituted as a not-for-profit company limited by guarantee and maintains a network of Registered Supporters.

**Fairshare's Campaign Committee** includes Scottish pro-reform activists from the following organisations and political parties:

- The Scottish Conservative Party
- The Scottish Green Party
- The Scottish Labour Party
- The Scottish Liberal Democrats
- The Scottish National Party
- Electoral Reform Society
- Charter88 Scotland
- The Centre for Scottish Public Policy
- The Scottish Council Foundation

All the members of the Campaign Committee serve in a personal capacity.

**Fairshare's principal source of funding** during its campaign on local government elections was a grant from the Joseph Rowntree Reform Trust Ltd. Additional financial support was provided by the Electoral Reform Society, Make Votes Count and individual Registered Supporters.

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