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scotland**



**Response to Local Healthcare Bill
March 2008**

Opening Remarks.

The Humanist Society of Scotland is appreciative of this opportunity to comment on the Scottish Government's intention to introduce legislation in a Local Healthcare Bill for provision of direct elections to NHS Boards in Scotland. We feel that greater public and patient involvement in the planning and delivery of local NHS services, which is a cornerstone of Humanist communities policy, is a crucial aspect of participatory democracy. Direct elections would mean a significant change to the way the NHS is run, as indeed the Consultation Document recognises (p.1), therefore the Humanist Society of Scotland (HSS) regards such an initiative as epoch-making, with its roots in the community and among ordinary consumers of healthcare.

The HSS welcomes the Scottish Government's stated commitment to encouraging effective grass roots participation as a key feature of good governance in the NHS, and notes that this approach is dependant on close scrutiny and transparent decision-making by the public. It is our contention that the NHS is a central institution with a proud history, a valuable asset for all. Good governance lies at the heart of this institution, so that the voice of local people and communities spoken clearly at Board level must be heard. We agree with the notion enshrined in the proposal that in order to broaden the context of promoting effective governance of the NHS through greater public and community involvement, the existing features of good governance must be protected. These include, in our estimation, high quality patient focus, an engagement with all stakeholders, unqualified accountability to Ministers and Parliament, transparent governance, and genuine scrutiny of services.

Given that the consultation paper sets out possible options including the retention of the current framework of appointed Boards, the HSS notes that by introducing new legislation to require elections to be held in order to place locally elected members to NHS Boards, a dual system of appointees and elected members, the Scottish Government sets up a tension of interests, a conflicting arrangement that may not easily co-exist. We accept that in order to make things better these dualities are necessary and part of a balance that works. We wonder to what extent any radical proposal for directly elected members to NHS Boards might be vitiated by vested interests already entrenched in the governance of the NHS, interests who regard these proposed changes as unnecessary duplication and extra layering, where democratic accountability and a public voice already exist, such as with local council members on boards, staff representation, and clinical and other interests. By launching these proposals the Scottish Government

engages itself to honour their findings in the consultative proposals however unpalatable these might be to current professional interests in the NHS. The HSS is unequivocally on the side of opening up the NHS to all levels of participation and governance, and would resist any moves to hedge in a genuine public participation with specious pleading for the status quo.

Section 1. Making things better.

1.1 The HSS notes that the proposals seek to augment existing policies within the current framework of NHS Boards. The Scottish Health Council is one of a number of committees charged with safeguarding and promoting a patient-focused NHS and involving the public in health service delivery. It also checks that boards are doing precisely this and the SHC consistently informs the public about the performance of NHS Boards. As a committee of NHS Quality Improvement Scotland, the SHC has a duty to support, ensure and monitor the discharge by NHS Boards of their duty to encourage public involvement.

1.2 **Humanists** find little to fault in the existence and remit of either of these bodies (QIS/SHC) but might observe that we have here an example of the duplication of effort that would not be challenged by an opening up of direct elections to NHS Boards, given that such bodies are not subject to Board jurisdiction, the parent body, NHS Quality Improvement Scotland, being a Special Health Board, with its own Patient Focus and Public Involvement set up, nor do Special Health Boards come under the new proposals and will continue to have only appointed members. The HSS is concerned that certain areas of the NHS, such as these Special Health Boards, are ring fenced and have their own public involvement structures and procedures that would rival and compete with the principle of direct elections to boards, given that SHBs would send the wrong signals to a public keen to have representation at all levels and in all quarters of the NHS.

1.3 **The proliferation** of groups for independent scrutiny of boards' activities, in particular a notion of adding more local authority councillors to each board, may not in our estimation necessarily serve the purpose of opening up representation, but instead expand the potential for local politics and political parties to interfere in party and partisan ways and become part of a mosaic of political rivalry and power gaining that would harm the best interests of a genuine grass roots 'ownership' of the NHS locally. We see the work of Public Partnership Forums associated with Community Health Partnerships as adequate statutory representation, supported by Community Planning Partnerships as a network that consolidates the principle of applied democracy in the NHS. Direct elections to boards is the final addition to this network

1.4 **Major service changes** are a testimony to the effect of greater public scrutiny and involvement, as took place in Greater Glasgow Health Board's area, and with the scrutiny of proposals from NHS Lanarkshire and NHS Ayrshire and Arran connected with keeping the Accident and Emergency services at Monklands and Ayr Hospitals. The HSS recognises these developments as demonstrations of the viability of increased public representation on boards. We are pleased to note that the Annual Review process between Boards and Ministers meeting has been opened up to local people and organisations, and

we would wish for the HSS to be involved in this area if possible, so that our members can form an opinion of this work and can question and discuss Boards' stewardship and performance. In conjunction with the Scottish Government's Patient Experience Programme, these are democratic pathways fully endorsed by the HSS.

1.5 Independent scrutiny embedded in this approach to local democracy and public participation is a central device that the HSS can support, and we would further wish to be involved in the separate consultation flagged in this document that is currently under way and relates to major service change proposals in the NHS in Scotland services. We agree with the notion that the current proposals for independent scrutiny of service change proposals do help the aim of better engaging and involving local communities. It is our perception that the appointment of more lay members to NHS Boards, in conjunction with direct elections, would be a step in the right direction for such community involvement, provided that each constituency does not cancel out another. Public Partnership Forums associated with Community Health Partnerships would in our estimation encourage greater public engagement because both groups are central to the focus on lay participation, education and training, and each represents the strategic principle of opening the NHS in Scotland to patients, their families and the general public.

Section 2 A new approach

2.1 The proposed Local Healthcare Bill raises a number of important issues about electoral processes, about pilot schemes in some areas, and about accountability and control of NHS Boards and a national consistency of approach in these matters. The distinction between lay people appointed after a competitive process to board membership, stakeholder members appointed following nominations from specific organisations like local authorities and staff representative bodies, and executive members who are appointed through the job they hold, e.g.; Medical Director, are an important paradigm for an understanding of the 'politics' of the proposed Bill. The HSS is not opposed to the retention of appointed members in the interest of continuity and fair representation of professional groupings within the NHS.

2.2 Electoral Process, Procedures and Systems chart clearly the significance of public involvement in directly affecting substantial budgets and overseeing a vital public service. The HSS wants to see that those standing for election should be part of this formal and transparent process, so we propose that candidates should be resident in the Board area and free from any political party affiliation. Humanist Society members for example should fulfil this requirement in that there is no conflict of interest in being an activist and supporter of a charity and engaging in local representation and service on his/her Board. It is important also that the equality and diversity of candidates be promoted by all means, so that evidence of a candidate's involvement and support for equality and diversity policies and activities should be sought before a candidate is eligible to stand. Profile statements are one way of doing this as well as declaring any interests, relevant skills and experience in NHS activities. Voting in the local elections should be the same as with local authority elections and the elections should be every

four years. Although some NHS Boards cover wide areas, the HSS would be in favour of some system of electoral wards.

2.3 Options for voting ought to encompass a mixture of first past the post and proportional representation, with a mixture of postal votes and ballots. Directly elected Board members should be remunerated at the same level as appointed Board members. Piloting is a sensible approach in order to compare what works best in practice. Certainly pilots could assess the outcome of electing a majority of members in one area, compared with electing a minority in another area. We also feel that the different voting methods referred to above are ideal for testing out in a pilot. Given that pilots ought to reflect the geographic and economic/social diversity of Scotland, the feedback has to be made public, as well as the number of pilots, their duration, and the assessment criteria.

2.4 Accountability of NHS Boards is a central aspect of local elections to Boards. If the aim is to achieve best representation across the spectrum of health service users then community involvement in planning and delivery of local health services means that elected members will have governance responsibilities across the board in applying safe, sustainable and effective NHS services in their area. If the framework of guidance is not at present legally binding then the advice and oversight by Scottish ministers must be vigorously justified and explained. Performance standards are too important for any haphazard approaches; therefore it is imperative in the thinking of the Humanist Society that accountability be linked to service vigilance. Although elected NHS Boards would follow national priorities and priorities there must be, in our estimation, freedom for boards to exercise local discretion and flexibility. The Humanist Society also believes that the current powers for Ministers to remove elected members can only be used after full and fair enquiry and justification. As to the cost of direct elections, the finance ought to come ring-fenced and from NHS resources, maintain their priorities and applicability within local NHS Boards' discretion

Finally, the Society agrees that NHS Boards need to be large enough to carry a sufficient number of lay and directly elected members; otherwise the whole purpose of local democracy would be negated. Naturally there are limits so that boards do not become unwieldy and where members feel themselves excluded because of the volume of business. The larger boards could operate at a figure of 30 members, including appointees, whereas for smaller boards perhaps half this number makes sense.

This response is our considered judgement on some of the issues raised in the consultation paper and the Humanist Society is pleased to respond in any other way as required.

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