

Local Healthcare Bill – Consultation Response; NHS Ayrshire and Arran

SECTION 1

Q1 Independent Scrutiny

Given that Independent Scrutiny Panels will not have the responsibility for public consultation or engagement it is unlikely that they will, in themselves, better involve local communities. For most individuals Scrutiny will be a relatively remote activity. If its conclusions agree with any particular group's sentiment then that group will welcome the result. If the conclusion is contrary to the group then the Panel will attract criticism for 'ignoring local opinion'.

Q2 Effective public consultation

There should be early engagement with as broad a range of options as possible followed by recommendations to the Board with no subsequent consultation. Where consultation is held after a full process of sifting and appraisal public expectations are almost bound to be too high. The room for movement should be small if the initial work has been well done.

Q3 Additional lay membership of Boards

There needs to be a balance between a Board size sufficient to encompass a wide range of expertise and perspective yet small enough to be effective in its work. While it is important that those who are members do come from the community served by the Board it is also important that they have the ability to understand the business before them and to effectively hold the executive to account. The current Public Appointments process seems an appropriate and tested means of achieving this.

Q4 Local authority role

Partnership working between the local authorities and the NHS continues to be critically important. The introduction of Single Outcome Agreements and the further emphasis on the strategic role of Community Planning add to the urgency of ensuring that good relationships and links are in place. Councillors as members of NHS Boards therefore fulfil an important function. To add to their number could be problematic for Councils since elected members have a range of responsibilities and servicing Council committees is likely to be their first priority. However if additional community representatives are to be found for Boards it would be preferable, and much simpler, to add to Councillor membership of NHS Boards.

Rather than Councils having a direct role in scrutiny it could be appropriate to allow Councils to request an independent examination of Board proposals.

Q5 Scottish Health Council

It is not obvious that any augmentation of the Health Council role would improve public engagement and confidence.

Q6 Public Partnership Forums and Community Health Partnerships

There are no simple answers as to means of improving public engagement using PPFs or any other groups. However PPFs might, in addition to their CHP input, have a direct reporting route to Boards and to foster public engagement might be supported in engaging formally with Community Councils.

Q7 Community Planning Partnerships

There is a general need for CPPs to engage with local communities. This should not be distorted or driven by an NHS agenda. Councils, the NHS and other partners should regularly review together whether they need to develop or change their ways of ensuring that their deliberations take sufficient account of community concerns.

Q8 Public engagement – general

More active, and possibly formal, engagement with Community Councils might be of some help. It is important to develop existing structures where possible rather than putting new ones in place.

SECTION 2

While the Board gives responses to the questions below on elections to Health Boards it has not changed its view that there is no convincing argument in favour of this proposal.

Q9 Eligibility of candidates

Candidates must live in the Board area. Apart from this the usual reasons for disqualification should apply. Beyond this there is no good reason for additional qualifications to apply to this particular electoral process.

Q10 Equality and diversity

Elections are unlikely to lead to the desired result. It has clearly proved difficult/impossible for local, Scottish and UK electoral processes to result in demonstrable equality and diversity in elected representatives. Quota systems can infringe legislation.

A system of appointments offers better opportunities to achieve a balanced Board. It would be important to ensure that positions were advertised by a sufficient range of methods to ensure that as wide a group of potential candidates as possible had access to the information.

Q11 Candidate statements

While opportunities can, and should, be given for candidates to provide profile statements they should not be compulsory. However interests, including political affiliation should be stated. However if the reason for elections is to secure a greater

public engagement it is odd to appear to suggest by this question that the electorate will potentially vote for individuals of whom they have no knowledge.

Q12 Political party candidates

It is clearly highly likely that political parties seeking to prosper from strong health policies will wish to take that into any opportunity afforded for election to Boards. The disputes in Ayrshire and Arran and in Lanarkshire prior to the May 2007 elections would have figured largely in any Board elections at that time. While there are aspects of this that are problematic it is the case that local Councillors, with party affiliations, serve on Boards. In addition it is the case that, provided it is declared, political activity is not currently a bar to membership. It is not readily apparent how political parties or their members could be barred.

Q13 Disqualification

Disqualification of candidates should follow the same rules as for local authority elections. In addition, they should not be practising healthcare professionals or be the owner of, or with significant interest in, the provision of private health care.

Q14 Eligibility to vote

The same rules as for local authority elections should apply but issue of turnout by the population and the cost of such elections would have to be taken into consideration. The NHS Board's 2006 response has more detail on this and is still relevant.

Q15 Period

Four years is an appropriate length of time and parallels other elections. More frequent elections would potentially allow insufficient time for new members to become effective (and might lead to even lower turnout for the elections). Less frequent could encourage staleness and complacency. A rolling programme of membership would be more appropriate than a complete changeover of members at any given time. This approach would maintain some continuity in and momentum in decision making. Care would need to be exercised to avoid 'planning blight' on the run up to an election. While there might be merit in local authority and NHS Board elections being held at the same time, this would probably result in even lower voter participation.

Q16 Proportion of elected members

If the Board is to balance its local responsibilities with those it owes to government in maintaining and implementing national policy then the proportion should be less than a majority. The potential for conflict with national policy with damaging effects on local services should not be risked.

Q17 Existing categories

The existing membership categories should be maintained within the discipline of keeping Boards to a size that allows effective performance. Current lay members ensure, through the appointment process, that the Board has the skills needed adequately to perform the governance role and to ensure at least some degree of diversity. Council representatives will be even more important given the need for closer partnership working.

Q18 Councillors

As noted above the added importance given to Community Planning as a result of Single Outcome Agreements and reduced ring fencing of budgets together emphasise the value of Councillor representation on Boards. Well-informed councillors have much to contribute to both bodies of which they are members. This would not be a role possible for directly elected Board members.

Q19 Electoral wards

Assuming there will be more than one elected member there should be electoral wards but the basis of these would have to be determined. It would undermine the intention to better engage with the public if all elected members came from one (small) part of the Board area. The potential for single-issue, highly local agendas to dominate Board proceedings should be avoided.

Q20 Single issue individuals and groups

See the answer to Q19. Where an individual or group is elected with a narrow agenda there would always be the possibility of a refusal to engage with the broad business of the Board to the detriment of good governance. The governance arrangements of NHS Boards should be reviewed and if necessary revised to minimise the danger of this.

Q21 Safeguards

Ensuring that elected members do not form a majority of the Board membership would be the most effective way of avoiding domination by a single interest group. Again, a well designed constituency system would help to minimise the danger of business being dominated by one Health Board sub-area. Once elected, apart from sanctions on those who do not attend meetings of the Board or who refuse to undertake appropriate committee work, it is difficult to devise means of blocking inappropriate behaviour. As noted for Q20, Standing Orders might need revision.

Q22 Voting system

Any voting system should be the same as that for the local authority, minimising the opportunity for voter confusion!

Q23 *Postal and polling station ballots*

Again to avoid confusion the rules should be the same as those for local authority elections.

Q24 *Remuneration*

The remuneration for elected members should be the same as for appointed members. This would avoid elections being potentially even less of a route to equality and diversity than would otherwise be true. Not being voluntary work it also gives some leverage in cases where members do not appear to take their full share of responsibilities.

Q25 *Pilots?*

Rather than move immediately to a complete set of elections for an untried process a pilot would be wise.

Q26 *How many*

One should suffice since all territorial Boards, despite their differences, have a common relationship to the centre and similar general agendas.

Q27 *Where?*

More important than 'where?' is adequate preparation in terms of consideration of the overall size of the Board and the continuation, or not, of the other categories of membership. A completely new set of lay Board members with no continuity would bring risks to good governance through inexperience.

Q28 *How long?*

Two cycles would be needed adequately to test a new system. Voter response on a first occasion might not reflect levels of interest on subsequent occasions and be more open to single-issue problems.

Q29 *Criteria*

If the main purpose is to increase community engagement then the key test will be whether a Board with elected members is able to implement potentially controversial measures, including closure of some service provision, without public disquiet. The local authority experience in relation to school closures is not encouraging.

Q30 *Performance levels*

It is inconceivable that any Board would be able to take a different view from others on whether or not to meet key targets. 'Post code' healthcare would readily attract hostile publicity. However it is and will remain the case that Boards will have to decide on a variety of local issues including priorities for investment. There probably is room within the current system for additional delegation. The number letters advising of

allocations for specific initiatives is close to absurd and includes some, relatively, very small amounts.

Q31 Guidance

To set guidance in a legal framework to ensure compliance would be necessary if there is a view that the elected Boards are likely to pursue policies which do not address the needs of the population or reject public health issues, but this calls into question the value of the proposed elections. To have elected members with their freedom to achieve any change strictly circumscribed seems of little value. The converse is that not to take the step risks a 'post code' effect with consequent damage to services. It would, therefore, seem sensible in the spirit of local determination that minimum standards are set out for all Board areas.

Q32 Dismissal

The rules as currently applicable to local authorities offer a reasonable guide.

In broader terms this is an area of some sensitivity as the purpose of direct election is to achieve local determination of services and a result of this could be actions by Boards which do not accord with national or government strategy but are supported locally. There should be powers to remove members in keeping with the arrangements for all other members. The Board Standing Orders should also address non-corporate behaviour. Breaches of the Ethical Standards in Public Life regulations would seem a relevant context.

Q33 Costs

Since the Board is not persuaded of the value of direct elections it would not support what would effectively be taking NHS funds from patient services to run elections.