



CONSULTATION ON LOCAL HEALTHCARE BILL

RESPONSE FROM NHS FIFE

Introduction

1. The consultation document overtly offers two approaches to encourage greater public and patient involvement in the planning and delivery of local NHS services in Scotland. In Section 1, Making things better, it seeks views on how to strengthen the involvement of people in the decision-making process of NHS Boards and, in Section 2, it sets out a new approach with NHS Boards having directly elected members. In its introduction, the consultation document states that the latter would be a further complementary approach to ensuring that the voice of local people and communities is heard when major decisions are being made.

Making Things Better

2. The document begins from the premise that the public do not believe NHS Boards have taken sufficient account of the views of local people and refers to recent controversial decisions on service changes as evidence of this. The Board of NHS Fife shares much of this view. In our response to the consultation on Independent Scrutiny we said

We suggest that in some of the recent debates about service change across the country the public's perception has been challenged, if not shaken, by forces in the face of which the NHS seems powerless. These include the influence of clinical governance bodies in determining clinical safety issues, changes to medical training with the impact of increasing specialisation and the impact of measures such as European Working Time Regulations.

These have all been powerful levers for change in the NHS and, when spelled out to the public, their reaction has been mixed. Some critics suggest that better management and planning would have avoided adverse impact on the service. Others suggest that NHS Boards are using this as an excuse to bring about change that they wanted in any case.

This last perception is fundamental to the debate and needs to be addressed in the development of policy. It relates to the mistrust some members of the public have about change in the NHS and what NHS managers and clinicians say to them. Independent Scrutiny is one measure that could help restore a measure of trust in the process of change.

3. We remain of the view that Independent Scrutiny offers an opportunity to restore trust between the public and NHS Boards at the most challenging area of their relationship i.e. that of major service change.
4. This is only one process dealing with this one aspect, however much of a problem this aspect has been. Both Independent Scrutiny and direct elections to NHS Boards form part of Better Health Better Care. We note that the Scottish Government has set out a range of other measures in the Action Plan. Section 1:
 - Refers to the good progress that Public Partnership Forums have made in involving local communities in the design and delivery of health services. It promises a set of specific proposals during summer 2008 which will strengthen their role still further.
 - Points to the work of Better Together – Scotland’s Patient Experience Programme – and states that the programme will make NHS Scotland a world leader in involving patients in the design of health care services.
 - Refers to the consultation that will take place on a charter of mutual rights, which will also set out the rights of patients to be treated as partners in their care.
5. These actions are taken in the context of the development of a Participation Standard, which the Action Plan for Better Health, Better Care states will be developed in consultation with NHS Quality Improvement Scotland, the Scottish Health Council, Public Partnership Forums and others. This Standard will become a performance measure for NHS Boards and will ensure that “patient focus and public involvement are core drivers of decision-making”.
6. All of this is introduced to the NHS in Scotland within the concepts of mutuality and co-ownership. We suggest that the specific actions listed above will not only significantly alter the basis on which the relationship between NHS Boards and the public operates at present but, working within the coherent framework of mutuality, offers an ambitious vision of a new relationship.
7. Moreover, they build on progress that has already been made and activity already taking place across the country. The consultation document on direct elections lists some of this activity. It cannot,

however, cover all of the local activity taking place in NHS Board areas to promote public involvement in planning and decision-making. This is covered by the Scottish Health Councils in their annual assessments of the Patient Focus and Public Involvement work of each of NHS Boards.

8. We suggest that the programme of action described in paragraphs 4-6, which the Scottish Government has set out, offers a constructive path through which to promote greater public and patient involvement in the planning and delivery of local NHS services in Scotland. We do not take the view that the direct elections are complementary to this but, rather, we feel that they are, as the consultation document states, a “new” approach.
9. We feel strongly that the Scottish Government should continue with the planned initiatives designed to strengthen public involvement and influence, building on current activity. The performance of NHS Boards in this area will be measured against the Participation Standard. Only if these actions were not effective would there be a need for a new approach.

A New Approach

10. While the twenty-four questions contained in Section 2 of the consultation document cover many of the issues of practicality raised by this proposal, we feel that there are other issues of practicality that are not covered.
11. The current arrangements for Board membership include Executive Directors, Stakeholder Members and Non-Executive Directors. The document asks the question whether these categories should continue to exist but we feel that it does not fully consider the impact of its proposal on the current Non-Executive Directors serving in NHS Boards.
12. Many of them are providing the scrutiny and challenge to the Executives required of them through their appointment and the introduction of an additional component to do this could lead to tension between the two components. This could lead to a loss of existing talent and expertise from the membership of Boards.
13. The current categories of membership operate within a broadly consistent framework of accountability to the national policies and priorities of the Scottish Government. We find it difficult to believe that directly-elected members can readily conform to this when their membership has been achieved through a completely different accountability mechanism.
14. This also raises the size of NHS Boards. The document points out that the size of Boards varies, with the largest being that of Greater

Glasgow & Clyde. If there is no change to the current categories, then inevitably the size of the Boards will increase, which adds to their administrative complexity and manageability.

15. It is also the case that the present public appointments process ensures equality and diversity issues are addressed in considering Board membership but also allows the membership of Boards to be judged on the basis of a balance of experience and expertise. It is not clear whether the implications for equalities duties of a part-elected membership have been considered.
16. Some of the questions in the document accept that there are challenges to the electoral process e.g. whether or not there should be eligibility criteria, whether or not there should be a residential qualification, whether or not some candidates might be excluded and the composition of the electorate. We would point to some other considerations related to the electoral process.
 - A main driver for direct elections has been the controversy that has arisen over major service change. If the direct election of members is the solution to this, it runs the risk of single-issue candidates being elected which, in turn, runs the risk of distorting the business of NHS Boards.
 - There is no evidence of a pool of people willing to stand for election.
 - The turnout at elections of all kinds has been declining over the years, which might call into question the appetite of the public for more elections.
 - The electoral process is not of itself free from barriers. There is a financial cost to elections and standing for election can be intimidating for individuals.
17. The document addresses the electoral process solely as an issue of a geographical NHS Board. There is no reference to the process for Special NHS Boards, which have a national remit such as the State Hospital or the Scottish Ambulance Service. Moreover, there are health service facilities in the major cities that provide national services e.g. the Royal Hospitals for Sick Children in Edinburgh and Glasgow or the Spinal Injuries Unit in Glasgow. It is not clear how any directly-elected component is going to reflect this geographical reach.
18. The document focuses on “community” as defined by a geographical entity, which is quite understandable in a document considering an electoral process. This underplays the complexity of the relationship among NHS Boards and between NHS Boards and local authorities. No NHS Board can on its own provide all the services an individual

might need, and Boards are increasingly working together, with the positive encouragement of Government. This could become more difficult if each Board has within it an increasing component which sees its accountability only to “a constituency” within its geographical area.

19. The traditional responsibility of Boards is for the health of their populations. This means that, in the area of health inequalities, NHS Boards have to take active steps to discriminate in favour of certain groups. Groups which suffer from health inequalities are often not vocal or politically attractive. Moreover, an electoral perspective might be argued to be over a shorter term than the long term perspective the Board should take.

Alternatives

20. We remain of the view expressed in paragraph 9 above that direct elections should remain a secondary option to be used in the event of the other Government initiatives not proving as effective as we think they are likely to be. We have, however, two proposals to put forward. The first step, in paragraph 21, could be taken whichever decision is adopted for direct elections. The second, in paragraphs 22-25, is a modification to the proposal for direct elections.
21. We believe that the public are not sufficiently aware of the role that Non-Executive Directors currently play in the decision-making of NHS Boards. Greater publicity could be given to their activity and the work they undertake. We accept that there could be a role for Board themselves in doing this. In addition to this, the recruitment and public appointments process could also be revamped to make it more accessible to a wider audience. This would not only increase the profile of Non-Executive Directors but could also attract more recruits to the pool of people willing to serve.
22. One way of overcoming some of the difficult practical issues raised in Section 2 of the document might be a form of modified election to the NHS Boards. The modification would be in the use of an existing mechanism to create a pool of likely candidates.
23. If the Scottish Government feels that it is not sufficient to await the outcome of the initiatives under way to strengthen public involvement and that there has to be a change to the membership of NHS Boards to achieve some form of direct public representation, we suggest that existing PFPI mechanisms are used. Stakeholder membership could be increased by having one or more members of the public on NHS Boards.
24. These stakeholder members could be drawn from the existing members of the public serving on Public Partnership Forums of Community Health Partnerships (and any parallel groups in the acute

sector in each area). This would mean that the pool of potential members:

Were members of the public;
Had already shown an interest in contributing to the decision-making of the NHS; and
Had some knowledge already of the system.

25. It would be open to question whether the membership of the Public Partnership Forums (and any parallel groups in the acute sector in each area) might also form an “electoral college” for these stakeholder members.

Summary

26. We are firmly of the view that the consultation document has identified an objective that needs to be addressed. We think that creating an electoral process to address this objective has raised many matters of practicability that are identified in the document and many others as well. We feel that it runs the risk of fundamentally altering the nature of the NHS Boards in a way that could undermine their effectiveness. The objective of restoring the relationship between NHS Boards and the public could more effectively and more quickly be addressed by the initiatives already underway - with or without the alternative options we put forward in paragraphs 21-25.

NHS Fife
March 2008