

CONSULTATION DOCUMENT: LOCAL HEALTHCARE BILL

INDEPENDENT SCRUTINY OF SERVICE CHANGE PROPOSALS

1. Do you think the current proposals for Independent Scrutiny of Service Change proposals help achieve the aim of better engaging and involving local communities?

It will be important to see the separate, Independent Scrutiny Consultation as applying to **major** Service Change proposals, which tend, by their nature, to be emotive and controversial. Service Change and Development does, however, operate at a number of different levels, and it will be important for the contribution of patients and communities to be embedded in the planning processes, rather than being viewed as an "add-on" at particular points in time. In order for Independent Scrutiny to effectively engage and involve local communities, it will be essential for whichever group is charged with taking forward Independent Scrutiny to have clarity of remit and sufficient time and resources to make the engagement and involvement genuinely representative and meaningful.

2. How could additional guidance to NHS Boards on making public consultation as effective as possible help achieve this aim?

There is, already, quite substantial guidance available to NHS Boards on Public Consultation and Engagement, including through the current Administration's approach to Independent Scrutiny. It would be helpful to have further clarity about what Public Consultation in relation to major service change proposals will be the responsibility of NHS Boards, and what will be the responsibility of the Independent Scrutiny processes. The role of the Scottish Health Council should also be re-examined so as to fit well with any new processes. It should be noted that, even with effective communication, it will often not be possible to secure universal agreement on politically controversial areas of significant change.

3. Would the appointment of more lay members to NHS Boards – perhaps to directly represent patients or other groups – help achieve the aim? How might this be achieved?

It is not considered that the appointment of more Lay Members to NHS Boards would help achieve the aim. To do so could increase the potential for "partisan" views to dominate, and to detract from the strategic and corporate agenda, and dilute collective decision-making. It would be more valuable for patient and interest group representation

to be harnessed through arrangements at an operational level, with relevant views being played into the strategic planning processes. Again, it is worth remembering that current Non Executive Members of Boards are local people, often patients, who are able to represent informed perspectives of local views.

4. In particular, would adding more local authority councillors (one councillor from each local authority whose area a Board serves is currently appointed to that Board) help achieve the aim? Could local authorities have a role in scrutinising public and community engagement?

It is not considered that adding more local authority councillors would help achieve the aim. The current arrangement, with one councillor from each local authority whose area a Board serves being appointed to that Board, operates effectively, with the designated councillors bringing an informed local authority view to the Board's deliberations. However, it should be clearly stipulated that local authority representation should always be at a very senior level of responsibility within the local authority. There already are substantial opportunities for engagement of local councillors for the area served by the Board, through the range of other partnership structures and processes that exist, both in health and in the local authority, including the Community Health Partnership arrangements and the Community Planning processes.

5. Should we develop further the role of the Scottish Health Council to bring about more effective engagement and involvement? If so, what additional responsibilities could the Council take on and what would the benefits be?

In addition to the key elements of the Scottish Health Council role set out in page 4 of the consultation document, there may be the potential to enhance the role of the Scottish Health Council working with NHS Boards as partners in public engagement, but clarity of remit for all involved in the process of public consultation and engagement is an absolute prerequisite.

6. How could the Public Partnership Forums associated with Community Health Partnerships encourage greater public engagement?

The Public Partnership Forums could provide a Forum for regular engagement and relationship building, and educating the public, and would be well worth further support and development.

7. How could local Community Planning Partnerships best ensure improved public engagement with NHS planning?

There already are quite extensive arrangements within the local authorities, with the aim of ensuring that partner organisations and communities contribute to the development and monitoring of the Community Plans. These arrangements may be enhanced through more subject specific events and seminars for a wider audience. Further, the new process of Single Outcome Agreements for local authorities has to be developed in such a way that the NHS Board has a full and meaningful partnership role throughout the process.

8. What other measures could be introduced to increase effective engagement and involvement of the public with the NHS in Scotland.

This question links very much with Question 1, in that the aim should be to have engagement and involvement embedded, rather than being processes taken forward at a particular point in time. The attraction, here, is that when formal consultation commences, the proposals will have been developed with the involvement of patients and the public, and this might be reflected in how they are received. Perhaps the arrangements might be enhanced by further developing the briefings with local elected members and local Members of the Scottish Parliament.

DIRECTLY ELECTED MEMBERS TO NHS BOARDS

9. What eligibility criteria should candidates meet (eg should they be resident in the Board area? Should there be any other qualifications?)

There are currently criteria for membership of NHS Boards set out in the SGHD Person Specification. There is no reason to change these criteria in the case of candidates for direct election, but there must be clarity about who would make the judgement about eligibility.

10. How could equality and diversity of candidates be promoted?

It could be argued that equality and diversity and a wide and appropriate mix of skills are more readily able to be promoted through recruitment processes, than in an 'election' situation. Careful thought will, therefore, require to be given to how this might be achieved. It is possible, even likely that worthwhile local people who would be prepared to serve on an NHS Board may be deterred from coming forward because of the nature of direct election.

- 11. 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?**

It would be not unreasonable to require candidates to submit/make available, a "profile statement", setting out relevant qualifications, skills and experience, as part of their "campaign" for election. This should include a declaration of any relevant interests.

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

If this question is intended to refer to candidates standing to serve on the Board as a representative of a particular political party, then such candidates should be excluded, as this brings a Political dimension to Boards which, currently, is not a feature of appointments to NHS Boards.

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

There are, currently, Criteria for Disqualification from Board Membership set out within the SGHD Information for Applicants to NHS Boards. A question arises as to the applicability of these criteria to candidates for direct election to Health Boards. The other issue to be considered, here, is whether the Criteria for Disqualification for local elected members and, indeed, MSPs, would apply in these circumstances.

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

If directly elected members are to represent particular communities, then technically all residents in the community (of voting age?), should be entitled to vote. Yes, the same rules as apply to local authority elections should be followed.

- 15. 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?**

Whilst, generally, a pattern akin to local authority elections, which are held every 4 years, should apply, a question arises as to whether some re-elections should be 2 yearly, to ensure continuity and turnover in membership.

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

It is not considered wise that directly elected members should form a majority of the members on a Board. This, potentially, could stifle Boards' ability to make decisions on evidence-based service changes, because of community/constituency loyalties, reflected in voting.

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

Yes, as this would retain an essential balance of Board membership, but care will be necessary to ensure that the addition of directly-elected members does not make Boards so large as to be unwieldy.

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

It is envisaged that directly elected members will represent a particular community view to the Board, in order that this can be considered in the Board's collective decision-making. Local authority councillors, on the other hand, bring the benefit of a combined local authority view, across the area in a strategic manner.

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

Currently, there are a substantial number of electoral wards within local authorities. If a similar system applied to NHS Boards, Boards would become unwieldy, and dominated by local constituency interests. However, some wider area groupings will be necessary to ensure an even spread of representation across the whole Board area.

20. 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?

The emergence of groups or individuals with particular views could be advantageous, provided that there was recognition that these views should contribute to, but should not dominate or undermine, the collective decision-making processes at Board level. There is, however, the potential for this to unbalance the issues and skew the focus of discussion.

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

It is, of course, desirable to prevent unrepresentative/disproportionate representation of a political party or special interest group on a Board, but it is difficult to identify the safeguards for this in a direct election situation.

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

We would favour a "First past the post" voting system. Proportional representation would be unlikely to be achievable without individuals representing a party.

- 23. 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?**

Either method would be democratic; however, the "polling station" system may present more of a logistical challenge. A postal ballot may be the more straightforward option, and may attract a larger "turnout".

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

Yes, directly elected Board members should be remunerated. This should be at the same rate as appointed Board Members, on the basis that the commitment envisaged will be the same.

Piloting the idea of Elections to NHS Boards

- 25. Are pilots a good idea?**

Yes – this would provide an opportunity to assess if directly elected Boards really added value to the current system.

- 26. How many pilots should there be?**

Perhaps 3 (or 4) pilots across different types and sizes of NHS Boards.

27. How should pilot areas be selected?

By the size and structure of NHS Board areas, giving a genuinely representative sample, so that the lessons learned from the pilots could be reasonably likely to be applicable in different areas across Scotland.

28. How long should pilots run for?

It is felt that 2 years would be a reasonable duration, in terms of informing a decision either to abandon the idea or to roll out direct elections.

29. What criteria should be used to assess and evaluate the pilots?

The fundamental criteria should be a measurement of the extent to which public engagement in the processes have been enhanced. There should also be an evaluation of Board effectiveness, against a range of criteria, to be agreed. This could include the contribution that directly elected members have made to the quality of the decision-making processes; whether their contribution has enhanced deliberations; whether it is considered, by their contribution, the Board feels it has had more direct access to the views of communities; and whether communities themselves feel more engaged in the decision-making processes.

Accountability of NHS Boards

30. Should NHS Boards continue to provide generally consistent levels of performance across Scotland and follow national policies and priorities? Or should elected NHS Boards have the freedom to exercise local discretion and flexibility?

Currently, NHS Boards provide generally consistent levels of performance, and follow national policies and priorities, and have the freedom to exercise local discretion and flexibility, in relation to meeting the assessed needs of their local population and particular groups and communities. This arrangement should continue.

31. Should current guidance eg on governance, priorities and performance standards be set out in future in legally-binding form, to ensure that elected Boards comply with them? What would be the advantages and disadvantages of this?

It is not envisaged that there is a need to enshrine current guidance in legally-binding form to ensure that elected Boards comply with them. It is felt that there are adequate mechanisms in place at present to

ensure Boards' compliance with relevant guidance as it relates to governance, priorities and performance standards.

32. Ministers currently have powers to remove members. Should they be able to remove elected members? What sort of reasons might justify such a power being used?

Currently, individual Ministers do not have powers to remove elected members to the Parliament or in Local Authorities. A decision on this matter would require to take account of the arrangements that currently apply for the removal of MSPs and local authority elected members, including the contribution of the local nominating group. Should the removal of a directly elected member be based on an infringement of the Disqualification Criteria for Board Membership or the extant Code of Conduct?

Costs of Direct Elections

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

It is envisaged that the costs of direct elections will be significant, and it is suggested that these should be funded centrally. It is noted that, based on recent studies by the Electoral Commission, the cost of initial elections across the 14 NHS Boards would be around £5m, but it is felt that, in reality, these costs will be likely to be exceeded. One of the purposes of a pilot study first is to ascertain whether the proposed new system genuinely adds value in relation to/in examining the costs involved in setting up the system.

NJA/OD
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