Public Petitions Committee – a template for public petitions

Should you wish to submit a public petition for consideration by the Public Petitions Committee please complete the template below. Please refer to the Guidance on submission of public petitions for advice on issues of admissibility before completing the template. You may also seek advice from the Clerk to the Committee whose contact details can be found at the end of this form.

Details of principal petitioner:
Please enter the name of person and organisation raising the petition, including a contact address where correspondence should be sent to, email address and phone number if available

Dr. Patrick McNally

Text of petition:
The petition should clearly state what action the petitioner wishes the Parliament to take in no more than 5 lines of text, e.g.

The petitioner requests that the Scottish Parliament considers and debates the implications of the proposed Agenda for Change legislation for Speech and Language Therapy Services and service users within the NHS

Petition by Dr Patrick McNally calling on the Scottish Parliament to urge the Scottish Executive to ensure that clear, transparent and meaningful public consultation takes place when changes are proposed to public health services.

Additional information:
Any additional information in relation to your petition, including reasons why the action requested is necessary, should not be included here. However, it may be appended to the petition and will be made available to the Public Petitions Committee prior to its consideration of your petition. Please note that you should limit the amount of any additional information which you may wish to provide in support of your petition to no more than 4 sides of A4.
Action taken to resolve issues of concern before submitting the petition:

Before submitting a petition to the Parliament, petitioners are expected to have made an attempt to resolve their issues of concern by, for example, making representations to the Scottish Executive or seeking the assistance of locally elected representatives, such as councillors, MSPs and MPs. Please enter details of those approached below and append copies of relevant correspondence, which will be made available to the Public Petitions Committee prior to its consideration of your petition.

I have discussed this at some length with Mr. John Scott MSP, who felt that this approach would allow a worthwhile examination of this issue, which he agreed, was a problem, both for the Public, who had lost trust in the process, and the Health Authorities who were trying to deliver change.

I have also discussed it with Cathy Jamieson MSP both at Public Consultation meetings, and privately.

In addition, I have also raised the issues with the Chairman of my local Health Authority, Ayrshire & Arran Health Board.

Petitioners appearing before the Committee

The Convener of the Committee may invite petitioners to appear before the Public Petitions Committee to speak in support of their petition. Such an invitation will only be made if the Convener considers this would be useful in facilitating the Committee’s consideration of the petition. It should be noted that due to the large volume of petitions it has to consider, the Committee is not able to invite all petitioners to appear before the Committee to speak in support of their petition.

Please indicate below whether you request to make a brief statement before the Committee when it comes to consider your petition.

I DO request to make a brief statement before the Committee ☑

I DO NOT request to make a brief statement before the Committee ☐

Signature of principal petitioner:

When satisfied that your petition meets all the criteria outlined in the Guidance on submission of public petitions, the principal petitioner should sign and date the form in the box below. Other signatures gathered should be appended to this form.

Signature:

Date: 8.2.66

Please note that any additional information, copies of relevant correspondence and additional signatures should be appended to this form and submitted to:

The Clerk to the Public Petitions Committee,
The Scottish Parliament,
Edinburgh
EH8 9SP
Additional Information

Healthcare is an issue of fundamental importance to all, the Public, the Healthcare Professionals and the Politicians.

It is also not static. It evolves in terms of methods and resources for treatment, and the organisational systems and structures to deliver them. It requires people, buildings and money to deliver care effectively, and all 3 of these components, and their deployment need to be appropriately delivered.

The key challenge for the Health Authority, and for the Politicians, is that the Public must trust them when they propose changes, in that these proposed changes will improve healthcare provision in their specific area.

It is clear to all however that across the population at large this trust has been lost.

One has only to look at the press coverage of the public reaction to changes, proposed or implemented, across a wide range of areas, e.g., Maternity Services in the Highlands, the various different restructurings both of clinical services and of administration in Argyle and Clyde, the proposals for changes in Ayrshire & Arran, and the recently published proposals for change in Lanarkshire, to see a consistent and unified response from the public to the proposed changes.

This is easily summarised and paraphrased as :-

#1 “The only reason for the changes is to save money”
#2 “We don’t believe you – you are not telling us the truth”
#3 "The "consultation process" is a sham, your minds are made up and its going to happen anyway"

This overwhelming distrust should be a major cause for concern by both the Health Authorities and the Parliament, and the reasons for it should examined and if possible, addressed and remedied.

What this petition asks the Parliament to address is the issue of Truth and Transparency – essentially #2 above, but also at the root of, and integral to, both #1 and #3.

Health Authorities will argue – rightly – that much detailed work takes place in assembling their proposals, but when they are presented to the public, the reality is that they – the Public - are presented with a glossy, and abbreviated, brochure promising wonderful new future developments in care as the result of the proposed changes.

Often the presentation promises a bright new future for a “new” service “X” in a “new” location, ignoring in some cases any mention of an existing service in “Y” location which puzzles readers who have been patients in that service in its “old” location and cannot see why it needs to move, since - in their experience – that is already what is being delivered at location “Y” – so why move it?
In essence, there is, I would submit a “Truth Deficit” largely due to an over-emphasis on presentation, and an under-emphasis on information which needs to be addressed.

The Public are NOT stupid, they and their families, and their neighbours, are the consumers of healthcare locally, and they have direct experience of what is actually being currently delivered – good, bad or mediocre – and the emphasis on spin and “future promises” at the expense of full explanation is at the core of the public mistrust of this process as it stands.

The current structure of Public Consultation allows for a “lay committee” to examine the proposals as representatives of the public, and this is, in theory, an admirable attempt at public involvement.

This is not effective in practice, and the public at large certainly do not think it effective for 2 main reasons.

The first is that the group do not get any “opposing” views from any other source, and the second is the perception that the Health Authority “chooses" the members of the group and as such they will "do as they are told" The relationship between a Doctor and a patient is built on Trust, with as its key building block, the concept of Truth and Consequences. The Doctor tells the patient the truth – good or bad – and explains the consequences.

If he/she is consistent about this, trust develops to the benefit of both.

If on the other hand there is more hyperbole than truth, trust is quickly lost.

The situation is similar at the level of provision of services by a Health Authority, and as a former Consultant Orthopaedic Surgeon and Surgical Director of a Hospital I firmly believe that this issue of Trust must be put back on the Public Agenda – for everyone’s sake.

A formula that is Honest and Transparent is the key first step.

This should list the reasons/challenges/pressures – choose the appropriate term – for the changes.

It should be backed up by an analysis of the consequences for each speciality of the proposed changes which is clearly understandable to the Public, identifying – and acknowledging – the existing services in each location, and explaining for each existing service, the consequences of the proposed changes.

I emphasise this because of the repeated tendency in this process to ignore reality in e.g., the separation of Acute and Elective Surgery.

A purely elective hospital will not have an Intensive Care Unit because all its surgery will be planned surgery on “fit” patients, and thus an ITU will not be necessary.
Yes – BUT – some major surgery requires ICU back-up, e.g., major Vascular surgery, among others. This will therefore need to be done in the “Acute” centre since it will – rightly – be more cost effective than having a second ITU, and carrying it out in a hospital without a full ICU means that – at times – very ill patients will need to be transferred to the centre with the ICU – not just an ambulance ride, but a complex matter needing an experienced anaesthetist in support, and carrying a real risk (of death in the worst case scenario) for the patient.

This however “complicates” the bed usage figures – so in effect what is happening is it is not being discussed in the Public Consultation. Complicating it may be – but a key part of the truth of resource allocation, which should be part of the information available to the Public.

Truth and Consequences – tell the public in simple clear terms, and try to win back their Trust.

Over the last few years, I have had the privilege of being invited by a variety of organisations to assist in the re-development of Health care systems in Countries with Economies in transition, and I have advised on restructuring on local, regional and National levels.

In some of these countries, loss of trust in the healthcare system, for a variety of reasons, was a major complicating factor in the redevelopment process.

In each of these, a programme of engaging with the public to begin the process of rebuilding Trust was an essential step on the way to any form of progress.

It is in no-one’s interest to stand back and do nothing while Public Confidence and Trust drain away from the management – and its companion, the delivery – of Healthcare.

I therefore respectfully petition the Parliament to re-visit the process to make it more Transparent, and more accessible to the Public, and make it something which they can once again begin to trust.

Tell the Truth and Explain the Consequences, I would submit, is a good starting point from which to consider how to improve the current situation.
Additional Information

If it is of any help to the Petitions Committee, a brief summary of my background and Healthcare experience.

Consultant Orthopaedic Surgeon Ayr Hospital 1980-91 (retired after car accident and neck injury)

Formerly: -
Surgical Director, Ayr Hospital
Member of Commissioning Team, Ayr Hospital
Chairman, Ayrshire & Arran Hospital Medical Association
Chairman, Ayrshire & Arran Hospital Audit Committee
Member of first group of Scottish Consultants chosen by (the then) Scottish Office to be sent for Senior Management training – King’s Fund Top Manager programme

Additionally, Formerly: -
Member of Council, Royal College of Physicians and Surgeons of Glasgow
Examiner for MRCS and FRCS
Also Examiner in PLAB tests for General Medical Council

Member of Council, British Medical Association
Chairman of Orthopaedic Committee of BMA
Member of National Executive CCSC (BMA Consultants Committee)
Representative of UK on EUMS – European Association of Specialists (EU committee)

I have had the privilege of being invited to contribute to Healthcare restructuring projects in: -

Poland
Hungary
Albania
Kosovo
Bosnia
Serbia
Russia
Ukraine
Moldova
Uzbekistan
Tajikistan
SCOTTISH CONSUMER COUNCIL

VIEWS ON PETITION PE938 FOR THE PUBLIC PETITIONS COMMITTEE OF THE SCOTTISH PARLIAMENT

Petition 938 by Dr Patrick McNally urges the Scottish Executive to ensure that clear, transparent and meaningful public consultation takes places when changes are proposed to public health services.

The Scottish Consumer Council (SCC) agrees that it is extremely important that such public consultations are carried out effectively.

Scottish Executive guidance

The Scottish Executive Health Department produced a document entitled *Interim Guidance on Consultation on Major Service Change* in 2002. A revised version of this guidance entitled *Informing, Engaging and Consulting the Public in Developing Health and Community Care Policies and Services* was issued in 2004. This guidance sets out clearly the kind of principles which NHS boards should be adhering to, and the processes they should be following, in major consultations on service change of the kind referred to by Dr McNally.

The role of the Scottish Health Council

The role of the Scottish Health Council (SHC) in this area is described in the guidance. The SHC has a central role in monitoring whether public involvement activities undertaken by NHS boards have been effective. Boards are required to consult the SHC on their proposals for service change before the consultation process begins. In any case where the SHC concludes that the public involvement process has departed from the guidance, they can invite Ministers to consider whether to require an NHS board to carry out the process, or parts of it again.

The Scottish Health Council thus has a very significant role in this process.

Scottish Consumer Council view

In our view, the approach which is currently in place is the correct one: ie guidance from the Scottish Executive Health Department combined with an independent review and monitoring process, led by the Scottish Health Council.

The Scottish Health Council has been in place since April 2005. The process of setting up a new body is inevitably a gradual process, and we would expect that it will take time for the SHC to establish its role clearly in this area. We hope that as the Council becomes established, it will become closely involved with boards’ consultation proposals at an early stage, and on an ongoing
basis, to ensure that boards are observing the principles which should underpin consultation processes, and that they are following the guidance. Those principles undoubtedly include honesty and transparency, which Dr McNally refers to in his petition.

It is equally important that, as the Scottish Health Council gains greater expertise in this area, there is an opportunity to review the guidance provided to NHS boards on a regular basis. Effective guidance should cover many of the issues raised by Dr McNally, for example,

- who is involved in early consultation on proposals
- at what stage a wider public consultation takes place
- the effectiveness of written consultation materials.

To conclude, the SCC considers that the processes currently in place, ie guidance from the SEHD, combined with review and monitoring by the Scottish Health Council, are appropriate. While there are clear indications from several board areas that this guidance is not resulting in effective consultation, we believe that as the Scottish Health Council develops its role these problems will be addressed. NHS boards will come to recognise that if they have not planned their consultation with the Health Council, and if they have not followed the guidance, then the consequences will be severe, in terms of wasted expenditure and staff time, when the process has to be repeated.
02 May 2006

Dear Dr Johnston

Response to the Public Petitions Committee Consideration PE938

Thank you for your letter of 16 March 2006 from the Petition’s Committee, asking Citizens Advice Scotland to comment on the petition from Dr Patrick McNally calling on the Scottish Parliament to urge the Scottish Executive to ensure that clear, transparent and meaningful consultation takes place when changes are proposed to public health services.

Citizens Advice Scotland welcomes the opportunity to respond; we anticipate that the new Independent Advice and Support Service that will be implemented across Scotland over the next few months will play an important part in helping members of the public access information on NHS services and is based on the first aim of the CAB service, which is:

"To ensure that individuals do not suffer through lack of knowledge of their rights and responsibilities or of the services available to them, or through an inability to express their needs effectively."

We anticipate that the new Independent Advice and Support Service will assist people to find out about a NHS Board’s proposals to change the delivery of services and we will work with local Boards to ensure that this type of information can be accessed by people through their local CAB.

The second aim of the CAB service is, "To exercise a responsible influence on the development of social policies and services, both locally and nationally."
The CAB service tries to ensure that the impact on peoples' lives of actual (or proposed) service changes is fed back via social policy work to statutory authorities so that they are fully aware of the effects that their policies, or alterations to service delivery have had on people.

To this end Citizens Advice Bureaux delivering the Independent Advice and Support Service will try wherever possible to feedback peoples' experiences and thoughts about the NHS services they receive.

The business of any consultation about NHS service changes is in itself a NHS service and if this appears to be inadequate then it would be appropriate for CABx to assist members of the public to inform their NHS Board of this.

CABx reach many people from disadvantaged circumstances who in reality usually have little opportunity to comment on proposed changes. It is hoped that the CAB Independent Advice and Support Service will assist people from hard to reach groups access information that may not readily be accessible to them.

Citizens Advice Scotland believes that it is everybody's interest to ensure that as wide a range of people as possible are involved in consultations about service changes and that they are fully informed about the reasons for the proposals.

It is increasingly likely that important decisions will have to be made about where resources are allocated and all citizens should be able to play an active part in helping Boards to make these decisions. Where people need help to access and understand this information then CAS will try to ensure that the new Independent Advice and Support Service is adequately equipped to assist.

Citizens Advice Scotland is actively working with NHS Scotland, the Scottish Executive and the Scottish Health Council to ensure that patients can feedback their experience of NHS services. We believe that by working together with these organisations we can advance the process of making the NHS more patient focussed.

Yours sincerely,

Jackie Burman
Health Support Unit Co-ordinator
Dear Dr Johnston,

**Consideration of Petition PE938**

Thank you for your letter of 16\textsuperscript{th} March 2006 inviting our comments regarding petition PE938 from Dr Patrick McNally, and we welcome this opportunity to give our views to the Committee which we hope will be of assistance.

The Scottish Health Council was established on 1\textsuperscript{st} April 2005 by the Scottish Executive in order that there should be “strong, independent, external scrutiny of local health systems to ensure Boards delivered their patient focus and public involvement responsibilities.”\(^1\) We are a national organisation with 14 local offices (one in each geographical NHS Board area) and we have a national Council and a Chairman appointed by the Minister for Health. The White Paper *Partnership for Care* (2003)\(^2\) set out three main functions for the Scottish Health Council, which are:

- **assessment** – independently assessing the performance of NHS Boards in delivering patient focused services and ensuring public involvement
- **development** – supporting the development of good practice in patient focus and public involvement
- **feedback** – ensuring that patients, carers and the public are able to make their views on health services known.

In his petition, Dr McNally calls on the Scottish Parliament to urge the Scottish Executive to ensure that clear, transparent and meaningful public consultation takes place when changes are proposed to public health services.


The *National Health Service Reform (Scotland) Act 2004* set out a new public duty on NHS Boards to ensure that those affected by change are involved in and consulted on both the planning and development of change, and the decisions made about change.

The current guidance on how NHS Boards should consult with the public on significant service change takes a number of forms. In 2002 a Health Department Letter (HDL) was issued - HDL (2002) 42 - which sets out draft interim guidance which replaces previous guidance. This guidance was augmented by *Informing, Engaging and Consulting the Public on Developing Health and Community Care Policies and Services*, also issued as draft by the Scottish Executive Health Department in 2004.

In addition *Partnership for Care* sets out the broad principles for public involvement, which are participation, empowerment and partnership, and it says that participation means that the views of patients, carers and local communities are "actively sought, listened to and acted on; and treated with the same priority as clinical standards and financial performance."

As part of our development role, the Scottish Health Council will be developing and expanding these guidelines, with the intention of ensuring as much transparency as possible is obtained in how NHS Boards are expected to consult, and how this can be evidenced in an open way. We will be looking to work with members of the community (including our own local members), NHS professionals and other interested stakeholders in order to ensure wide ownership of new standards. In the meantime however our role is to review how well NHS Boards are consulting with the public by following the existing guidelines. We perform this more generally through an annual assessment process looking at a variety of indicators, but in relation to a particular significant service change proposal we also carry out a specific review and report to the Minister on how well the consultation has been carried out. If we find that a Board has not sufficiently consulted then in our report we can ask the Minister for Health to instruct the Board to repeat the consultation. It is important to note that we have no independent power to review the NHS Board decision or to prevent a proposal from proceeding, as our role is advisory. In practice it is our wish that we work pro-actively with boards, giving them advice and constructive criticism as they proceed through a consultation, and so avoid a situation where the time and expense of a consultation has to be repeated.

Some of the issues that have already emerged in the short space of time we have been monitoring activities in this area are as follows:

---

3 National Health Service Reform (Scotland) Act 2004


1. NHS Boards need to ensure that they develop proposals in an inclusive way in order to develop options for formal consultation – if the pre-consultation process is not open and inclusive then formal consultation will not address these earlier flaws. The failure to properly involve people in the development of options leads in turn to members of the public doubting that the Board is genuinely consulting and suspecting that the matter is a ‘done deal’.

2. When a proposal goes to formal consultation it can be difficult for NHS Boards and members of the community to hold a rational public debate – too often dialogue becomes difficult during public meetings, with professionals inclined to be defensive, and members of the public adopting accusatory and aggressive language. Public meetings need to be structured, and perhaps rethought, in order to better build trust and confidence on both sides.

3. An important area of public concern is around the quality of information provided by NHS Boards. Informed choice requires objective, fair and balanced information. When Boards consult with local populations they need to ensure that the information they disseminate is as fair and unbiased as possible, and more than simply a summary of the arguments and reasons that are favourable for the option they prefer.

4. NHS Boards need to balance often very strong views from communities with important clinical and financial issues. Partnership for Care sets out the general principles of how this should be approached by stating that the views of patients, carers and communities are as important as clinical standards and financial performance – but this equally means that local views do not over-rule or ‘trump’ clinical and financial considerations. Rather, decision making needs to be informed by an attempt to balance these different perspectives. In practice NHS Boards find this difficult to evidence, even when they have genuinely tried to achieve this balance.

The general quality of consultations carried out by NHS Boards has undoubtedly improved compared to a decade ago, but there is no doubt that there need to be further improvements to keep pace with the expectations of both the public and politicians. The NHS is going through a period of very important changes, and the Kerr Report\(^6\) has given some guidance about the general direction these will take, and the Scottish Executive sets out key action points to achieve these changes in Delivering for Health\(^7\). Some of these changes will not be popular with all parts of a community which underlines the need for the NHS to engage honestly and openly on the challenges that face them. HDL (2002) 42 states that:

*An inclusive process may not always result in universal support for a proposal but it should demonstrate an NHS that listens, is supportive and has genuinely taken account of views and suggestions.*

---

\(^6\) Building a Health Service fit for the future. A National Framework for Service Change in the NHS in Scotland

The Scottish Health Council has not been established to be a 'court of appeal', and even very good consultation processes will not reduce the need for the NHS to make difficult decisions. In circumstances where there are options for change, the Scottish Health Council will not take a view on which option is best overall, as this is a matter for the NHS Board. There is an important distinction between asking a board to evidence that they have given appropriate weight to the views of the public, and adjudicating on whether their final decision is the right one to make. The final decision remains the responsibility of the Board, and ultimately of the Minister and the democratic process. In practice this distinction may sometimes become very fine – whilst the Scottish Health Council is anxious that it does properly hold NHS Boards to account and will review the evidence that local views have been listened to, we are very aware that we do not wish to stray into the territory of deciding whether the Boards are properly accountable at local level, which is a contentious political issue and very likely to remain so for the foreseeable future. For this reason the Scottish Health Council is in the process of developing and refining our own standards governing how we monitor NHS Boards and how we reach our decisions and judgements. The involvement of our Council plays a key part in this process, as does the advice of members of our Local Advisory Councils and staff in local offices.

We are also in the process of establishing links with similar organisations in other parts of the United Kingdom and abroad in order to develop an 'evidence base' of best approaches both for consultation methods; and for monitoring and reviewing consultation processes.

The Scottish Health Council is still at a very early stage of developing this work, and indeed of developing our role and an understanding of our role in both the NHS and beyond. One of our challenges is to review current controversial service change proposals whilst we are still examining the best way to approach and analyse these issues from an evidence-based position. As a result of observations made so far we are writing to all NHS Boards stressing the importance of keeping us informed of progress where there are proposals for significant service change, and also to ensure that they have met with us and that we have had the chance to fully review the process used in developing options before they proceed to a formal consultation.

I hope these comments are helpful to the Committee, and I and Mr Brian Beacom, Scottish Health Council Chairman, would be very happy to meet with the Committee or to give further comment.

Yours sincerely,

Richard Norris

Director
Dear Michael

Thank you for your letter of 22 March requesting comments on PE 938 submitted by Dr Patrick McNally. This requests that we ‘ensure that clear, transparent and meaningful public consultation takes place when changes are proposed to public health services.’

I will first of all explain what we have done, and continue to do to ensure NHS Boards engage in genuine dialogue with the patients and communities they serve. Secondly, I will set out the specific steps we are taking to provide the ‘clear, transparent and meaningful consultation’ sought by Dr McNally when changes to health services are being contemplated.

Let me begin by saying that I agree with Dr McNally about ‘Truth and Consequences’ being a necessary cornerstone of the way we involve patients and the public as we build an NHS to meet the challenges that face us; challenges which are well articulated in Professor David Kerr’s report, Building a Health Service Fit for the Future1. This report clearly explains why the ‘NHS in Scotland needs to change. Not because it is in crisis as some would have us believe - it is not; but because Scotland’s health care needs are changing and we need to act now to ensure we are ready to meet the future challenges’. To meet that challenge of change the Kerr Report, in one of its seven key messages, said that NHS Scotland should:

‘develop options for change with people, not for them, starting from the patient experience and engaging the public early on to develop solutions rather than have them respond to predetermined plans conceived by the professionals’.

---

1 SEHD 2005: [http://www.scotland.gov.uk/Publications/2005/05/23141307/13104](http://www.scotland.gov.uk/Publications/2005/05/23141307/13104)
As made clear in the Executive response to the Kerr Report, *Delivering for Health*\(^2\), we are determined to work with the people of Scotland to deliver the high quality, safe and sustainable healthcare; as local as possible and as specialised as necessary. In so doing, NHS Boards must engage in genuine dialogue with the communities they serve to ensure not only that the interests of patients are paramount in the redesign of services, but that every reasonable effort is made to explain the impact of service changes for both patients and local populations, and to involve all stakeholders in the development of options for change.

**Developing a National Approach to Public Involvement**

This awareness of the importance of public involvement is not new. We have been working for a number of years to put in place a comprehensive set of checks and balances to ensure that patient focus and public involvement is ‘embedded in the culture ... of the NHS and that ... listening to, understanding and acting upon the views of local communities, patients and carers is given the same priority as clinical standards and financial performance’\(^3\).

One of the key principles of our Patient Focus and Public Involvement approach is to build public confidence in the NHS. We recognised that an important factor in achieving this would be to develop open and clear processes for planning and consulting on service change. That is why, in May 2002, we replaced the 1975 guidance on *Closure and Change of use of Health Service Premises*\(^4\) with draft interim guidance on *Consultation and Public Involvement*\(^5\). NHS Boards were required to take a pro-active and positive approach to public involvement in areas of potential service change and, to support them do so, we supplemented the guidance with the *Building Strong Foundations Toolkit*\(^6\) which provides practical advice on methods of consultation.

Importantly, the guidance recognises that involving the public in service change should not be an isolated activity but part of an integrated process of communication and discussion; where communities, public, patients, carers and NHS staff have a real opportunity to influence decision-making. Critically, it recognises that to build the public’s confidence and trust a period of formal consultation on specific proposals needs to be part of a Board’s broader ongoing process of communication with, and involvement of, the communities, patients and the public it serves.

The guidance makes it clear that ‘end process’ consultation is not acceptable and identifies key requirements for a valid consultation, including many to which Dr McNally alludes, for example:

- early and ongoing communication where proposals for consultation are developed openly in partnership with all affected groups and communities so that the formal consultation process is an outcome of that joint development process;
- the provision of adequate, readily available and easily understandable information about the reasons for the proposed change to enable members of the public to come to an informed conclusion;
- allowing sufficient time for consultees to consider and respond to the proposals which emerge from that process; and
- giving genuine consideration to any alternative suggestions that are put forward as a result of the consultation.


\(^4\)SHHD, June 1975


\(^6\)SEHD 2002: [http://www.show.scot.nhs.uk/involvingpeople/bsfkit.htm](http://www.show.scot.nhs.uk/involvingpeople/bsfkit.htm)
The guidance also recognises that such an inclusive process is unlikely to result in universal support for a proposal, but would demonstrate that the NHS had listened and genuinely taken account of the public’s views and suggestions.

A New Public Involvement Structure

The proposal that NHS Boards engage more directly with the public was seen as impacting on the role of the local Health Councils (LHCs) which at that time acted as the ‘voice of patients and the public within the NHS’. Indeed, the LHCs themselves, as Dr McNally records, believed that their credibility with the public was jeopardised as NHS Boards selected and appointed their members and staff. The Scottish Consumer Council (SCC) was therefore asked to carry out a pre-consultation on the proposals in Patient Focus and Public Involvement for re-shaping the structures which supported public involvement in the NHS, including the local Health Councils.

The SCC’s report confirmed a need for strong, independent external scrutiny of local health systems to ensure that the requirements placed on the NHS were delivered. It found broad agreement for the establishment of a national body with a local presence – the Scottish Health Council – to quality assure Boards’ delivery of their responsibilities in this area. Following a formal consultation process, the responses to which were analysed by the SCC, the LHC structure was dissolved and the Scottish Health Council established on 1 April 2005.

However, as concern had been expressed during the consultation process about a lack of a statutory basis for this restructuring, the NHS Reform (Scotland) Act 2004 underpinned the new arrangements by placing two duties on NHS Boards to involve the public and to promote equal opportunities. At the same time, Building a Better Scotland placed a requirement on ‘all NHS Boards to achieve year-on-year improvements against plans for actively involving patients and the public in the planning and delivery of NHS services … as reflected in reports by the Scottish Health Council’.

NHS Boards are also required to nominate a Designated Director for Patient Focus and Public Involvement to provide leadership and co-ordinate activities across the Board. This involves the establishment of a governance structure to hold the Board’s units and divisions to account for delivering the statutory and policy requirements placed upon the Board. This in turn should allow the Board to provide the Scottish Health Council with evidence of the year-on-year improvements required by Building a Better Scotland.

The Scottish Health Council

I believe that the Scottish Health Council has the potential to be a powerful mechanism for holding the NHS to account for its performance in patient and public involvement activities. It will ensure that patients, the public and NHS Scotland have:

- national standards for a patient-focused NHS that involves the public in health services;
- an independent method to check the performance of NHS Boards in delivering a patient-focused NHS that involves the public in health services;
- the best possible information about how well NHS Boards are involving people in decisions about health services and what difference this is making;

---

7 http://www.scotconsumer.org.uk/publications/reports/reports02/rp04pub_pre.pdf
8 http://www.scotland.gov.uk/Publications/2003/03/16552/19096
9 http://www.scotconsumer.org.uk/publications/responses/resp03/rs05NHS3.pdf
10 http://www.scotland.gov.uk/library5/enterprise/babs-00.asp
a national source of information and advice on best practice in involving the public in health services and ensuring a patient-focused NHS;

effective ways to provide and obtain feedback on people’s experiences of health services, with appropriate support services in place.

Importantly, in view of the concerns expressed by Dr McNally, the Scottish Health Council, unlike its predecessors in the Local Health Councils, does not simply examine a Board’s proposals ‘as representatives of the public’. The Council’s local staff work alongside the public and patients to establish whether the Board is providing them with the information and support they need to play their full part in a consultation process. For my part I have made it clear to NHS Boards that, should the Scottish Health Council advise me that a particular consultation has failed to meet the expected standards, I will require them to carry the consultation out again in whole or in part. However, I do not expect to have to exercise this power as NHS Boards recognise that they must consult the Scottish Health Council before any consultation process begins and, where necessary, adapt the process as it proceeds to take account of their advice.

In line with the Building a Better Scotland commitment the Scottish Health Council is currently assessing Boards’ delivery of their patient focus and public involvement responsibilities. This assessment will inform the Annual Review process which I will again hold in public in each Board’s area over the summer. As part of the preparations for each Review meeting, I have asked the Council to work with the NHS Board to ensure that I have the opportunity to meet with a representative group of people who can discuss with me what it is likely to be a patient receiving services provided by the Board.

**Reviewing the Implementation of the Guidance**

In anticipation of the establishment of the Scottish Health Council, we asked the Scottish Consumer Council and Scottish Health Feedback to support us in reviewing the implementation of the 2002 guidance. This culminated in the issue for comment of revised and expanded guidance on *Informing, Engaging and Consulting the Public in Developing Health and Community Care Policies and Services*[^1]. However, as Communities Scotland had also developed its *National Standards for Community Engagement*[^2], we subsequently decided not to formally issue the revised guidance, but instead to ask the Scottish Health Council on its establishment to review the guidance available to the NHS, and to work with the Health Department to arrange the issue of final guidance on public involvement.

The Scottish Health Council has now endorsed the Communities Scotland document and NHS Boards are now required to use these standards in their everyday, ongoing engagement of the people who use their services. The Council is now reviewing the *Informing, Engaging, Consulting* guidance in the light of the experience of its first year of operation, and final guidance should issue shortly.

I expect this evolutionary process to continue in the years ahead as we use the real experience of patient and public involvement across Scotland to identify and share best practice and build a service where individuals, groups and communities are involved in improving the quality of care, in influencing priorities and in planning services.

Conclusion

I believe that the arrangements we now have in place are addressing the concerns identified by Dr McNally. Patient and public involvement is now a statutory duty of Boards, and I require them to take a proactive and positive approach to this. Please be assured that I consider this to be an important area and one where our policy, and its underpinning guidance, will continue to evolve in the light of real experience.

The Scottish Health Council has been established as a national source of advice and good practice on patient and public involvement and Boards are required to work with it. The Council’s local and regional offices are forging links with Public Partnership Forums in the newly established Community Health Partnerships, and with other key groups and communities in their areas, and this should ensure that Boards develop options for service change with people; not for them.

We have made it clear that involving the public cannot be an ‘add on’ or something to be done at the end of a process; it must be part of an integrated, ongoing process of communication and discussion. Communities, patients, carers, public and NHS staff must have a genuine opportunity to influence decision making. Boards must be able to demonstrate to the satisfaction of the Scottish Health Council that they have operated an inclusive process which is not only clear about the reasons for a proposed change and the intended benefits, but also shows that they have listened to the views and suggestions of stakeholders. Should the Scottish Health Council advise me that the process has not met the standards expected for a valid consultation, I will require the Board to carry out the process again in whole or in part, as appropriate.

These new arrangements have been in place for slightly over a year, and it has taken time for the Scottish Health Council to establish its role in this area. That said, it is already evident that, as the Council becomes more closely involved in ongoing and proposed consultations, they are helping forge a genuine partnership between Boards and the people they serve: a partnership built on the honesty and transparency which Dr McNally seeks.

I am committed to continuing to give patients a real and influential voice in decisions about the future of their local health service and about their own individual care. I expect NHS Boards to demonstrate that they are achieving year-on-year improvements in patient care by supporting patients and the public to become involved as partners in service planning and delivery. The arrangements now in place will, I believe, ensure that NHS Scotland works to implement the proposals in Delivering for Health by engaging with, and winning the support of, the people it serves.

Yours

ANDY KERR