

Direct Elections to National Health Service Boards (Scotland) Bill

Consultation Document

Foreword



My proposal for the Direct Elections to National Health Service Boards (Scotland) Bill was lodged in the Scottish Parliament on 8th May 2003.

Since I was first elected I have been contacted by constituents who have expressed to me their concerns about changes made to the provision of local health services.

Time and again I have heard from people who feel frustrated and angry about decisions made by NHS Boards which they perceive to be completely against the views of the local community. I know that these feelings are felt in communities across Scotland when changes are proposed to local health services.

This document sets out in detail this proposal and why I think it is so important that members of the public are allowed directly to elect members of NHS Boards. I want to hear as many views as possible on the underlying principle of the Bill and the electoral system that would enable the public directly to elect National Health Service Board members.

All comments submitted during this consultation process will be considered prior to the Bill being lodged in the Scottish Parliament.

Thank you for your interest in the proposed Direct Elections to National Health Service Boards (Scotland) Bill. I hope that you will submit your opinions as part of this consultation process.

Bill Butler MSP

June 2004

What is the 'Direct Elections to National Health Service Boards (Scotland) Bill'?

The proposal, brought by Bill Butler, MSP for Glasgow Anniesland, will, if enacted, require direct elections, by members of the public, to the majority of places on National Health Service Boards in Scotland.

The proposal has attracted the required number of cross-party MSP signatories within the allocated timescale and was, therefore, allowed to proceed.

The MSP signatories to date are:

Marlyn Glen, Trish Godman, Scott Barrie, Kate Maclean, Margaret Jamieson, Janis Hughes, Mr Richard Baker, Paul Martin, Cathie Craigie, Karen Whitefield, Bristow Muldoon, Maureen Macmillan, Johann Lamont, Ms Rosemary Byrne, Tommy Sheridan, Frances Curran, Rosie Kane, Carolyn Leckie, Colin Fox, Mr Duncan McNeil, Mark Ballard, Chris Ballance, Pauline McNeill, John Swinburne, Jackie Baillie, Mr Kenneth Macintosh, Mr Mark Ruskell, Stewart Stevenson, Shona Robison, Mrs Margaret Ewing

Following consultation, a draft Bill will be lodged and the Presiding Officer will rule on its competence in accordance with the terms of the Scotland Act 1998. It will then be a matter for Parliament to decide on how the Bill proceeds.

NHS Boards – Current Position

The National Health Service (Scotland) Act 1972 allowed for the establishment of area health boards to assess health needs and administer the provision of relevant health care. Currently, there are 12 mainland and 3 island NHS Boards in Scotland.

In September 2001, the Health Boards became unified with NHS Trusts as set out in [Our National Health: A plan for action, a plan for change](#) (Scottish Executive, 2000). Trusts have now been dissolved and should now be operating divisions within NHS Boards. The overall function of the unified boards is a strategic one, which can broadly be divided into:

- Strategy Development – the boards are responsible for the development of a single local health plan
- Resource Allocation in accordance with strategic objectives laid out in the health plan
- Implementation of the health plan
- Performance Management of the local NHS system

Membership of the NHS Boards is made up of:

Non-Executive Lay Members - NHS Board Chair, Trust Chairs and up to 2 other lay members. These members are appointed by Ministers after open competition.

Non-Executive Stakeholder Members - Local Authority members, Chair of the Area Partnership Forum, Chair of the Area Clinical Forum, University Medical School member.

Executive Members – NHS Board Chief Executive, Trust Chief Executives, Director of Nursing, Director of Public Health, NHS Board Director of Finance.

NHS Boards in Scotland

Argyll and Clyde

Ayrshire and Arran

Borders

Dumfries and Galloway

Fife

Forth Valley

Grampian

Greater Glasgow

Highland

Lanarkshire

Lothian

Orkney

Shetland

Tayside

Western Isles

Why are direct elections to National Health Service Boards necessary?

Recent decisions made by NHS Boards across Scotland, and elsewhere in the UK, have caused a great deal of anger and dismay. There is a developing perception that current consultations carried out by NHS Boards, regarding the provision of local health services, have pre-determined results and do not properly take public opinion into consideration.

There is a growing sense of public disempowerment where NHS Boards can act freely in direct opposition to the wishes of the public. This has resulted in a public increasingly inclined to mobilise and organise around health issues. This mobilisation tends to develop in response to unpopular Health Board actions, rather than in advocacy of new initiatives.

Direct public elections would allow the public a mechanism to influence service delivery in their area. If we are to address public suspicions, there must be greater openness and transparency, and direct accountability.

The democratisation of health service boards would confer locally generated legitimacy on the decision making process for local health services. Direct elections would improve public trust in NHS Boards and their decisions. Direct elections would confer a legitimacy on health board decisions which, at present, they lack.

As well as increasing public empowerment through legitimising health board decisions, direct public elections would increase the accountability of board members to the communities which elect them.

Views will be sought on the general principle of direct public elections to elect members of National Health Service Boards.

Electoral System and Candidacy

1. Electoral System

Should candidates be elected for the whole Health Board area or for smaller parts of that area, such as those covered by local authority wards?

If the option of smaller constituencies is chosen, would candidates be elected under the First-Past-the-Post system (similar to the current local government electoral system with council wards electing people from specific communities to represent them on the council), or some other majoritarian system?

If elections were conducted so that board members were elected to represent smaller electoral divisions within the larger Health Board area, it could be argued that it will create a natural incentive for board members to represent the geographical interests of the ward/constituency area in which they were elected. This would encourage the community to vote for a candidate who represents the interests of the entire community, rather than those with sectional interests or specific group interests.

Alternatively, the Single Transferable Vote System (STV) could be used with 'at-large' elections – meaning that STV could be used to elect members representing the entire Health Board area, as opposed to smaller parts of the Health Board area.

The potential benefits of an 'at-large' electoral structure would be to give greater flexibility, allowing people to vote for the candidate they think will do the best job regardless of where within the Health Board area they live. It would also give voters a larger range of candidates to choose from, and would therefore give voters a better opportunity to support candidates who are more likely to represent their particular

concerns (be they based on gender, ethnicity, locality or any other factor). This is the system that will be used in New Zealand's 2004 District Health Board elections¹

Views will be sought on whether elected members should be elected to represent the whole of the Health Board area or to represent smaller parts of the larger Health Board area.

¹ For further information visit www.moh.govt.nz/dhbelections

2. Length of Term for Elected Health Board Members

Should the principle of direct representation of local community interests to National Health Service Boards be guaranteed and distinct from both local authority nominees and those directly appointed by the Scottish Ministers?

Views will be sought regarding the frequency of Health Board elections and the tenure of office of elected members.

3. Proportion of a National Health Service Board to be Elected

What proportion of a National Health Service Board should be directly elected by the public? Should it be all members, half of all members or a minority? It is the current intention of this Bill to have 50% + 1 of the positions on each Board directly elected.

Views will be sought on the proportion of seats on a National Health Service Board to be decided by direct public election.

4. Conditions of Candidacy

Who qualifies to vote in elections to National Health Service Boards?
Should those on the electoral register and those entitled to vote in local government elections be those deemed eligible to vote in elections to National Health Service Boards?

Issues for Consideration

- Should other considerations be taken into account when determining the eligibility of candidates, such as criminal record, individuals declared bankrupt, or individuals whose circumstances may create a conflict of interest² with holding a position on a National Health Service Board?
- Should it be necessary for candidates to gather nominations before they are eligible to stand, and if so how many and from whom?
- Should candidacy be limited to those living within the area covered by the NHS Board for which they wish to stand? What would happen if, once elected, a Board member moves house outwith the Health Board area – would they have to stand down? Such a geographical restriction might stop someone from standing where that person lives just outwith the Health Board area, and who is suited to articulate the interests of the local community.
- How could individuals representing the interests of large organisations be prevented from being elected to the Board?
Restricting the franchise to only local people would support the

² To view the Conflict of Interests Statement used in New Zealand District Health Board election please use the following link
www.moh.govt.nz/moh.nsf/wpg_index/About-DHB+elections+Conflict+of+Interest

view that local residents would vote only for local candidates that would represent local community interests.

Views will be sought on whether candidates should require nomination (and, if so, from whom), and whether there should be restrictions placed upon those eligible to stand for election.

5. Nature of the Ballot

How should the election be conducted – in person or by postal ballot? Postal ballots are shown in some cases to increase turnout due to the advantage of convenience – this has been highlighted recently by the increase in turnout at the postal voting pilots held in the local and European elections in England in June 2004.

Views will be sought on whether elections to National Health Service Boards should be by postal ballot.

6. Publicity and Election Campaign Expenditure

Rules may be necessary to govern publicity, campaigning and expenditure during elections to National Health Service Boards. If the elections were to become politicised and dominated by party politics, large organisations or other interests there could be concerns that this would be contrary to the spirit of elections to National Health Service Boards.

Without stopping candidates from expressing what they stand for through their manifesto there could be a number of steps taken to deal with such concerns, for example:

- restricting the description on the ballot paper to simply the candidate's name and address.
- in the case of a postal ballot, allowing the candidates to provide a statement of their views and intentions to be distributed along with the ballot papers.
- either not allowing for election expenses or setting a very low limit on election expenses, requiring candidates to submit returns.

Views will be sought on what rules, if any, should be introduced regarding the use of publicity and election expenditure.

Making your views known

Prior to the Bill being laid before Parliament, it will be helpful to receive comments to inform the process.

On the basis of the information on previous pages, please answer the following questions:

1. Do you support the principle of direct public elections to appoint NHS board members?

Yes

No

Unsure/Don't know

Comments.....
.....
.....
.....
.....

If you answered 'No', thank you for taking the time to respond to this consultation. Your views will be taken into account in the consultation

2. What proportion of seats on NHS boards should be decided by direct public election?

$\geq 70\%$

$\geq 50\%$

50%

$\leq 50\%$

$\leq 30\%$

Other Option.....

3. Should elected health board members be elected to represent:

The whole Health Board Area

Smaller areas or districts within the Health Board area?

4. Which electoral system should be used to elect board members?

Single Transferable Vote

First-Past-the-Post

Other, please state below

5. How should elections to NHS boards be determined?

- Secret ballot cast in person
- Postal ballot
- A combination of votes cast in person and postal ballot
- Other Option.....

6. Should all elected posts on a National Health Service Board be put up for election in the same cycle or do we want a system that staggers changes to the membership of the Board?

- All posts elected in the same cycle
- Staggered changes to the elected posts on NHS Boards

7. How often should elections to NHS boards take place?

- Every 2 years
- Every 3 years
- Every 4 years
- Every 5 years
- Every 6 years
- Other.....

8. What term should the elected members serve?

3 years

4 years

5 years

Other.....

9. Should candidates standing for posts on NHS boards require to gather nominations?

Yes

No

10. If yes to Q6, please state from whom nominations should be received.

11. Should any of the following factors be taken into account in disqualifying individuals from standing as candidates for National Health Service Boards? Please tick as many as you wish.

- Criminal record.
- Declaration of bankruptcy.
- Individuals with a recognised conflict of interest.
- Any other reason, please specify.....

12. Should the number of times that an individual is allowed to stand be limited?

- One Term
- Two Terms
- Other, please specify.....
- No limit on terms.

13. At what age should individuals be allowed to vote in elections to National Health Service Boards?

- 16 years
- 18 years
- 21 years
- Other option, please specify.....

14. At what age should individuals be allowed to stand as candidates for National Health Service Boards?

16 years

18 years

21 years

Other option, please specify.....

15. Should any of the following restrictions be placed upon the use of publicity?

Restricting the description on the ballot paper to simply the candidate's name and address

Allowing the candidates to provide a statement of their views and intentions, to be distributed along with postal ballot papers.

Setting a very low limit on election expenses and requiring candidates to submit returns.

Do not allow candidates to spend any election expenses.

No restrictions should be placed'

16. Please provide any additional comments and information that you feel is pertinent to this consultation.

Please address all correspondence to:

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Please return your comments on the Bill by Monday 13 September 2004.