Health Board (Membership and Elections) (Scotland) Bill

Response from the Royal College of Nursing Scotland

The Royal College of Nursing (RCN) Scotland welcomes the opportunity to submit evidence to the Health and Sport Committee on the Health Board (Membership and Elections) (Scotland) Bill. As we are contributing to the Stage 1 debate, this submission focuses on general principles, rather than the detail of the Bill. We would welcome the opportunity to explain our position in person to the Committee.

RCN Scotland’s Key Points:

- Both the consultation document and the policy memorandum to this Bill are clear that the intention of the legislation is to improve public engagement and involvement in the NHS. As such, any electoral pilot should not be commenced until the additional public and patient engagement policies promised in Better Health, Better Care\(^1\) have been agreed and are ready to implement. This will allow the synergy (or otherwise) between the various approaches to improved engagement to be tested appropriately.

- The focus of any pilot to test patient and public involvement and engagement should be on outcome and not on process. The key question of any evaluation must not be “do direct elections work?”, but “how do we best ensure that the public and patients are involved in the planning and delivery of local NHS services in a meaningful and effective way?”.

- In light of the above point, we believe that piloting and evaluating a single approach to improving patient and public involvement is inadequate and will not ensure that public resources are best spent on achieving the desired outcome. We are, instead, proposing a set of three different pilots be launched, run and evaluated together.

- Estimated full election costs between the consultation stage and the published Bill have risen exponentially, from £5 million to £13.05 million. We are deeply concerned that the estimated £2.86 million bill for the pilot sites alone represents a significant diversion of funds from frontline healthcare in the relevant Boards. This is a pilot in which Health Boards cannot be guaranteed an appropriate return in local engagement and the selected pilot Boards alone will be expected to meet these costs. As such RCN Scotland believes that this one-off funding should be provided by central Government.

- In discussing the principles of this Bill, we would ask the committee to clearly note that this legislation is designed specifically to improve engagement and participation and not accountability. The notes to the Bill are clear that Boards will remain accountable to Ministers and not to the specific electoral ward(s) which voted in individual elected members.

\(^1\) e.g. The anticipated Patient Bill of Rights and the new participation standard for NHS Boards.
Background to our proposed approach
RCN Scotland was clear in its response to the Scottish Government’s Local Healthcare Bill consultation that we support greater patient and public involvement in Health Boards, within the ethos of mutuality between patients, public and staff. Our submission made specific suggestion for improved representation at both local and Board level. We suggest:

- Creating a new public/patient stakeholder post on Health Boards, nominated from each Board’s Public Partnership Forums and/or Patient Councils;
- Investing in supporting Community Health Partnerships (CHPs) / NHS Boards to develop local engagement and build the skills of patient/public partners;
- Re-examining the role of local councillors in NHS Boards to allow them to discharge their duties as elected representatives;
- Re-examining the lay member selection process to ensure equality of opportunity;
- Ensuring communities can interrogate Health Board decision-making via the new Independent Scrutiny Panels;
- Clarifying the way in which findings of the Patient Experience Programme will influence NHS Boards and their performance management targets; and
- Better promoting the ways in which people can engage with local NHS decision making. We are particular concerned that current forums may be dismissed as ineffectual simply because opportunities for engagement are inadequately publicised.

We continue to assert that this approach will be far more likely to “encourage greater public and patient involvement in the planning and delivery of local NHS services in Scotland”\(^2\) within the emerging culture of a mutual NHS which is jointly owned by patients, public and staff. In contrast, we are concerned that elections to Health Boards will:

- Risk bypassing the national democratic process, in which the elected Government has, and will retain, ultimate responsibility for the success, or otherwise, of Scotland’s NHS;
- Diminish the development of existing, but fledgling, patient and public forums (such as Public Partnership Forums and Patient Councils), which will not be able to “compete” with the democratic mandate of elected Board members. Similarly, we believe Health Board elections will invalidate the Independent Scrutiny process of non-elected panels;
- Be contrary to the Scottish Government’s policy focus on overcoming inequalities, by limiting non-clinical and non-partnership Board seats to those who are, in practice, wealthy enough, eloquent enough and/or “acceptable” enough to be voted in; and
- Distort the potential for genuine mutuality between patients, public and staff by placing elected lay members on a different footing in boards than appointed staff representation through both clinical and union seats. This does not support Scotland’s successful partnership approach, which is championed by the current Government.

Other organisations similarly criticised election proposals during the consultation, including: The Scottish Health Council, The Scottish Consumer Council, Stonewall Scotland, SAMH, Sense Scotland, Community Pharmacy Scotland, and a number of NHS Boards. RCN Scotland’s full response to the original consultation can be viewed at:

As the Government has now decided to forge ahead with proposals for elections, we do support plans to pilot the process. That said, we do not believe that the Government’s proposals for testing go far enough. The proposed pilot will not allow the Scottish Parliament, nor the wider public, patient and staff co-owners of the NHS, to truly evaluate whether this one approach will give all partners the very best, and most meaningful, opportunity to engage in joint ownership.

It is unfortunate that the additional commitments made by Government to improve other areas of public and patient participation, rights and responsibilities have yet to be published. These include proposals to strengthen the role of Public Partnership Forums, a Patients’ Rights Bill, and a new participation standard for NHS Boards\(^3\). As such we cannot evaluate the engagement opportunities in these proposals, nor clearly assess if, and how, they will dovetail with proposals for direct elections.

Finally, we are also deeply concerned by the increase of over £8 million pounds in the estimated recurring costs, from £5 million in the consultation document to £13.05 million in the notes to the Bill as published. This is to be met from existing budgets and we fear this could impact on frontline health services, particularly given the tight financial situation of this spending review cycle. If such large amounts of NHS funding are to be diverted under central Government policy, we must be sure that this level of investment from Health Board budgets gives the best possible return in relation to patient and public engagement.

**Our proposed approach**
Firstly, we ask the Committee to ensure that any electoral pilot is not commenced until the additional public and patient engagement policies promised in Better Health, Better Care have been agreed and are ready to implement. This will allow the synergy (or otherwise) between them to be tested appropriately.

In addition, RCN Scotland is proposing a tripartite approach to the pilot and evaluation process which would be conducted within the current pilot budget of £2.86 million.

**RCN Scotland proposals for tripartite pilots to ensure effective patient / public engagement in the NHS**

**Health Board 1:**
Carry out an election as per the legislation passed by the Scottish Parliament. Simultaneously, fully implement all other Scottish Government policies around improved patient and public engagement and co-ownership, using any specific

\(^3\) Better Health, Better Care: action plan, Scottish Government (2007) pp. 6-7
additional implementation monies committed by central Government for these initiatives.

Health Board 2:
Do not carry out an election. However, fully implement all other Scottish Government policies around improved patient and public engagement and co-ownership, using any specific additional implementation monies committed by central Government for these initiatives.

Health Board 3:
Do not carry out an election. However, fully implement all other Scottish Government policies around improved patient and public engagement and co-ownership, using any specific additional implementation monies committed by central Government for these initiatives. In addition, invest the £1.3 million identified as election costs for the 2nd pilot area under current Government proposals in additional measures to improve patient, public engagement within the context of a mutual NHS.

We would advocate such additional funding being invested in upskilling patients/public involved in PPFs or Patient Councils to eventually take on a nominated board role, investing in improvements in the current public appointments system and improving local publicity for opportunities to get involved in NHS service developments. However, we appreciate that the use of such monies should be open to wider consultation.

The three pilots should run concurrently and be given at least three years in which to evolve before the evaluation is completed. We have criticised the Government’s approach for too quickly adding new initiatives to ones yet to be fully tested. It is important that each approach is given sufficient time to prove its worth.

We believe that this tri-partite approach will ensure that it is outcome and not process that is placed at the heart of the evaluation, as befits the current climate of public sector performance measurement. The key question must not be “do direct elections work?” but “how do we best ensure that the public, and patients, are involved in the planning and delivery of local NHS services in a meaningful and effective way?”. This is the only way to ensure that patients and the public are placed at the heart of evaluation, alongside existing staff engagement initiatives.

We believe there would be much public and political support for such an approach. For example, in detailed discussions with one of Scotland’s largest Health Boards with a compelling track record in public and patient engagement we have found strong backing for our proposals. Many organisations that are concerned with equality, such as the Scottish Association for Mental Health and Stonewall Scotland, have supported our call for alternative pilots that invest in and strengthen the existing and planned measures to improve patient and public engagement.

We are still concerned that the estimated £2.86 million bill for the pilots, as proposed in the legislation, represents a significant diversion of funds from frontline healthcare in the relevant boards. This is a pilot in which Health Boards cannot be guaranteed

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4 Est. £2.86 million total cost for the 2 pilots, less £0.25 million for evaluation = £2.61 million for 2 pilots = £1.3 million per pilot
an appropriate return in local engagement and the selected pilot Boards alone will be expected to meet these costs. As such RCN Scotland believes that this one-off funding should be provided by central Government. We appreciate that this is no guarantee of future central funding. However, our proposed approach to a tripartite pilot will also ensure that future activities, which may draw heavily on precious NHS resources, are directed to the most effective, and fully tested, engagement strategies possible in the future.

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