



Department of  
**Health**

An Roinn Sláinte

Máinnystrie O Poustie

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**FAMILY PRACTITIONER SERVICES**

**INDEPENDENT APPEALS**

**CONSULTATION REPORT**

**November 2021**

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## Section 1: Summary of the Consultation

### Introduction

1. On 30 July 2021 the Department of Health launched an 8 week public consultation on the proposed Family Practitioner Services Independent Appeals process, to be established following the closure of the Health and Social Care Board. The consultation closed on 24 September 2021.

### Background

2. The Department of Health is referenced in primary legislation as the body to which individuals have the right of appeal to or are the appropriate body in terms of dispute resolution, if they disagree with determinations made by Committees of the Health and Social Care Board. Upon closure of the Board, responsibility for its functions will transfer to the Department of Health. The Department will therefore have responsibility for the lists of family practitioner services (GPs, Dentists, Community Pharmacy and Ophthalmic) and the contracts with those providers.
3. A specific element transferring to the Department is the work of Board Committees. Following the dissolution of the Board, six Committees of the Board which deal with matters in relation to the Family Practitioner Services will transfer to the Department and become Committees of the Department.
4. These Committees are as follows:
  - Assessment Panel
  - Disciplinary Committee
  - Pharmacy Practices Committee

- Reference Committee
- Review Panel
- Local Intelligence Network

5. With the closure of the Board and the transfer of the Committees to the Department, a change is required to provide an independent appeals mechanism for what will in future be determinations of the Department.

#### Current process

6. The Committees with the exception of the Local Intelligence Network, are decision-making groups. Currently if an individual wishes to make an appeal against a decision taken by any of the decision making Committees, the individual makes an appeal in the main to the Department.

7. In the case of the decisions made by the Pharmacy Practices Committee, if an individual wishes to make an appeal, they make their appeal to the National Appeal Panel (NAP) constituted by the Department. For the other decision making Committees and any appeals that fall outside the scope of the NAP, appeals are heard by the Department.

#### Planned process

8. To address the new arrangements the Department proposed a two panel approach:

- retention of the National Appeal Panel (NAP) in its current form, and
- the establishment of a new separate Family Practitioner Services Independent Appeal Panel.

## Retention of the National Appeal Panel

9. As the NAP is well established and has a proven record, it was proposed that this panel should be maintained as is and therefore continue to hear appeals against decisions taken by the Department that are within the remit of the Pharmacy Practices Committee.

10. The National Appeal Panel is constituted in accordance with paragraph 15 of Part IV of Schedule 4 to the [Pharmaceutical Services Regulations \(NI\) 1997](#), which provides detail on areas such as membership, quorum and voting rights.

## Independent Appeals Panel

11. The consultation outlined the establishment of a second appeals panel to deal with all other appeals made as a result of determinations of the committees within the Department, (General Medical Practice, General Dental Practice, General Optometry Practice and any Community Pharmacy appeals that are outside scope of the NAP).

12. The proposed Family Practitioner Services Independent Appeals Panel would replicate the good practice already established by the NAP and use the principles and protocols of the NAP in terms of the approach to the establishment of the new independent appeals panel.

13. The consultation outlined the following proposals in respect of the new Independent Appeals panel:

- Panel would be chaired by an independent legally qualified chair, the chairs would be appointed to chair Appeal Panels for a fixed term;
- Panel would comprise at least 3 persons (including the Chair), the other members will include a member/s who have experience of the professional discipline in question and a lay member. Professional members and lay members would be equal in representation on the panel;
- Professional members would be appointed following consultation with such organisations that may be recognised by the Department as representative of the respective discipline;
- The lay members would be drawn from a pool to be recruited for this purpose and again the pool recruited for a fixed period;
- The Department would provide administrative support to the panel, such support to be drawn from an area that is not associated with the operational decision making or policy making areas in respect of the relevant professional area under appeal; and
- Panel members would receive fees and allowances for their attendance at appeal hearings in line with those set by Department of Finance / Department of Justice.

## Consultation

14. The Department sought views from key stakeholders on the proposal to establish a future appeal process for family practitioner services that is both independent and transparent in its decision making.
15. The consultation asked for views on the proposals and the Department is grateful to all of the organisations and individuals who submitted responses.
16. The questions asked were as follows:

### **Policy**

**Q1.** Do you agree with the broad policy intent that there is a requirement to provide an Independent Appeal Panel?

**Q2.** Do you agree with the proposed constitution of the Panel?

### **Equality and Human Rights**

**Q3.** Is the option set out in the consultation document likely to have an adverse impact on any of the nine equality groups identified under Section 75 of the 1998 Act?

**Q4.** Are you aware of any indication or evidence – qualitative or quantitative – that the option set out in the consultation document may have an adverse impact on equality of opportunity or on good relations?

**Q5.** Is there an opportunity to better promote equality of opportunity or good relations?

**Q6.** Are there any aspects of the proposal in the consultation where potential human rights violations may occur?

## **Rural Impact**

**Q7.** Is the proposal set out in this consultation document likely to have an adverse impact on rural areas?

17. Responses were received from:

- Association of Dental Groups;
- British Dental Association; and
- British Medical Association.

18. Only one group used the consultation response template (shown in **Annex A**). The other two consultees opted for a general, written text response.

19. The views of all respondents and the Department's response to those views are set out in **Section 2**.



## **Section 2: Responses Received and Departmental Response**

### **The consultation asked**

Do you agree with the broad policy intent that there is a requirement to provide an Independent Appeal Panel?

### **Response**

Two of the three consultees responded to this question, both agreed with the broad policy intent that there is a requirement to provide an Independent Appeal Panel.

### **Department's Response**

The Department welcomes the views and the endorsement of the requirement to provide an Independent Appeal Panel.

### **The consultation asked**

Do you agree with the proposed constitution of the Panel?

### **Response**

Only one group directly replied to this question. Their response was largely to agree with the proposed constitution of the panel though they did state that further consideration could be given to the appointment process to provide for a robust and transparent process which ensures that all those suitably qualified, be lay or members of the discipline are given the opportunity to apply as appropriate.

### **Department's Response**

The Department welcomes the response received. The views submitted will be considered as part of the development of the appointment process. It is the intention that the recruitment process should reflect the good practice evident in recruitment to the existing National Appeal Panel.

**The consultation asked**

Is the option set out in the consultation document likely to have an adverse impact on any of the nine equality groups identified under Section 75 of the 1998 Act?

**Response**

There was only one response to this question which was that the option set out in the consultation was not likely to have an adverse impact on any of the nine equality groups identified under Section 75 of the 1998 Act.

**Department's response**

The Department notes the response to this question.

**The consultation asked**

Are you aware of any indication or evidence – qualitative or quantitative – that the option set out in the consultation document may have an adverse impact on equality of opportunity or on good relations?

**Response**

The one response to this question was that the respondee was not aware of any evidence that the option set out in the consultation could have an adverse impact on equality of opportunity or on good relations.

**Department's response**

The Department notes the response to this question.

**The consultation asked**

Is there an opportunity to better promote equality of opportunity or good relations?

**Response**

The one response to this question highlighted that there was an opportunity to better promote equality of opportunity or good relations through greater clarity in the appointments process for membership of the Panel.

**Department's response**

The Department notes the response received which will be considered as part of the development of the appointments process. It is the intention that the recruitment process should reflect the good practice evident in recruitment to the existing National Appeal Panel.

**The consultation asked**

Are there any aspects of the proposal in the consultation where potential human rights violations may occur?

**Response**

The one response to this question was that there are no aspects of the proposal where potential human rights violations may occur.

**Department's Response**

The Department notes the response.

**The consultation asked**

Is the proposal set out in this consultation document likely to have an adverse impact on rural areas?

**Response**

There was one response to this question which was that the proposal would not adversely impact on rural areas however they did highlight that they would expect all members of the Independent Appeals Panel to be given appropriate awareness training which would include these duties.

**Department's response**

The Department notes the response and will consider in the provision of necessary training for the panel.

## Other areas raised

20. Further comment was offered by all three groups and this is set out in the following paragraphs.

### **Remit of the panel**

21. One group focussed on the opportunity the change presented to include appeals for decisions taken across all decision-making forums rather than just those currently made by the Health and Social Care Board.

### **Department's response**

22. The response is noted, however the consultation was focused solely on those decisions made by the Health and Social Care Board which is due for closure.



## **Appointment Process**

23. In relation to the appointment process, one response stated an appointment process should be openly advertised in the profession and sought clarification on the length of appointment. They were of the view that all appointments to the panel should be for a “fixed term” and the length of this term, together with an obligation to advertise when a vacancy falls due be put into regulations in the interests of maintaining transparency in the appointment process.

24. Another response highlighted the need for an independent recruitment process for staff, whilst relevant professionally experienced members should be appointed following consultation with the relevant professional body.

## **Department’s response**

25. The Department welcomes the comments which will be further considered in the development of the appointment process.

26. The Department is committed to the development of an appointment process which is open and transparent. It is intended that the process will reflect the good practice and spirit of transparency evident in the appointment processes to the existing National Appeal Panel.

### **Provision of training**

27. One response felt that the provision of appropriate training was essential so that those who were selected to sit on the panel not only had the relevant experience for the role but also received appropriate training on how to carry out the role.

### **Department's response**

28. The importance of the provision of the necessary training and support for the panel is recognised and the comments raised in this consultation will be considered as part of process.

### **Positioning of independent appeals panel**

29. It was also proposed that consideration should be given to siting the Independent Appeals Process in a neutral venue.

### **Department's response**

30. The location of the appeal hearings is an operational matter that is under consideration.

### **Benchmarking against best practice**

31. The commitment within the consultation document to learn from the best practice of the established of the NAP was welcomed.

### **Department's response**

32. The existing NAP is recognised as providing good practice in terms of the approach to the establishment of the new independent appeals panel. This practice will guide the development of the governance and operational procedures required for the new panel.

### **Governance, Independence and Representation**

33.The requirement for the appropriate governance and accountability mechanisms to be put in place was highlighted.

34.The response further expressed the need for independence, highlighting the importance of ensuring the free flow of information to the panel.

35.A further comment was made that anyone appearing before an appeals panel should be entitled to representation from their Local Medical Committee (LMC).

### **Department's response**

36.The Department is committed to the establishment of an independent appeals process that is fair and transparent and this is reflected in the composition of the panel.

37.The new appeals panel will be chaired by an independent legally qualified chairperson and the panel will include both relevant discipline specific professionals independent of the Department and lay representatives again independent of the Department.

38.In addition, the new secretariat for the panel will sit outside the operational and policy areas within the Department of Health. This is to ensure that the appeals process is as independent as possible and that there is no actual or perception of the possibility of influence by policy or operational areas of the Department with the judicial function of the panel.

39.The Department notes the comments that anyone appearing before an appeals panel should be entitled to representation from their Local Medical Committee (LMC).

40.It is envisaged that representation arrangements will mirror those of the National Appeal Panel, which facilitates attendance by those on behalf of the parties involved.

## **Consultation Document Detail**

41. Finally one response commented the consultation document lacked detail on:

- the type of appeals that are likely to be heard, or the remit of the panel that this process will replace; and
- accountability, governance, independence, and recruitment.

They welcomed additional information on these issues and how they will be taken into consideration throughout the establishment and lifetime of the panel.

## **Department's response**

42. The consultation process sought views on the proposal to establish an independent appeal panel – the detail of how this panel will function in terms of for example governance, recruitment, membership, will be subject to further more detailed consideration drawing upon the arrangements already in place for the National Appeal Panel.

43. As the processes are developed, stakeholders will be kept informed. In addition, when the processes have been agreed, communication about the Family Practitioner Services Independent Appeal panel will be issued to all stakeholders.

### Section 3: Next Steps and Way Forward

44. Given the broad endorsement of the proposals outlined within the consultation the Department intends to progress the establishment of a Family Practitioner Services Independent Appeals panel.

45.. This will involve three main areas of work:

- changes to existing and development of new regulations,
- recruitment to the appeals panel; and
- organisation of the administrative support for the operation of the process.

46. As this is linked to the closure of the Health and Social Care Board, the required regulations for the Family Practitioner Services Independent Appeal Panel will be brought forward following Royal Assent of the Health and Social Care (Northern Ireland) Bill in early 2022.

**Annex A**

Consultation Response Questionnaire

**Question 1: Do you agree with the broad policy intent that there is a requirement to provide an Independent Appeal Panel?**

Fully Agree / Mostly Agree / Neither Agree nor Disagree / Mostly Disagree / Fully Disagree  
*(delete as applicable)*

**Question 2: Do you agree with the proposed constitution of the Panel?**

Fully Agree / Mostly Agree / Neither Agree nor Disagree / Mostly Disagree / Fully Disagree  
*(delete as applicable)*

**General Comments**

Please add any further comments you may have:



## Equality and Human Rights

Section 75 of the [NI Act 1998](#) requires departments in carrying out their functions relating to NI to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between person with a disability and persons without; and
- between persons with dependants and persons without.

You may wish to refer to the Equality Screening, Disability Duties and Human Rights Assessment Template at <https://www.health-ni.gov.uk/consultations>

<b>Question 3: Is the option set out in the consultation document likely to have an adverse impact on any of the nine equality groups identified under Section 75 of the 1998 Act? (Please Tick)</b>	Yes	
	No	
<i>If yes, please state the group(s) and provide comment on how these adverse impacts could be reduced or alleviated in the proposals:</i>		
<b>Question 4: Are you aware of any indication or evidence – qualitative or quantitative – that the option set out in the consultation document may have an adverse impact on equality of opportunity or on good relations? (Please Tick)</b>	Yes	
	No	

<p><i>If yes, please give details and comment on what you think should be added or removed to alleviate the adverse impact:</i></p>		
<p><b>Question 5: Is there an opportunity to better promote equality of opportunity or good relations? (Please Tick)</b></p>	<p><b>Yes</b></p>	
	<p><b>No</b></p>	
<p><i>If yes, please give details as to how:</i></p>		
<p><b>Question 6: Are there any aspects of the proposal in the consultation where potential human rights violations may occur? (Please Tick)</b></p>	<p><b>Yes</b></p>	
	<p><b>No</b></p>	
<p><i>If yes, please give details as to how:</i></p>		

## Rural Impact

The Rural Needs Act (NI) 2016 became operational on the 1 June 2017 and places a duty on public authorities, including government departments, to have due regard to rural needs when developing, adopting, implementing or revising policies, strategies and plans and when designing and delivering public services. A draft rural needs impact assessment has been prepared against these policy proposals.

<b>Question 7: Is the proposal set out in this consultation document likely to have an adverse impact on rural areas? (Please Tick)</b>	<b>Yes</b>	
	<b>No</b>	
<i>If yes, please provide comment on how these adverse impacts could be reduced or alleviated:</i>		
<b>General Comments</b>		
Please add any further comments you may have:		

## **ANNEX B**

### Organisations which responded to the consultation

Association of Dental Groups

British Dental Association

British Medical Association