



Department of
Health

An Roinn Sláinte

Mánnystrie O Poustie

www.health-ni.gov.uk

FAMILY PRACTITIONER SERVICES INDEPENDENT APPEALS CONSULTATION DOCUMENT

Stakeholder Consultation Document

30 July 2021

Basic Information

This consultation is being undertaken by the Organisational Change Directorate in the Department of Health.

Duration: This consultation will last for 8 weeks from **30 July 2021 to 24 September 2021**.

Enquiries: For any enquiries about the consultation please email the Department at:

OrgChgDir@health-ni.gov.uk or Telephone: 028 9037 8711.

Impact assessments

An Equality Screening, Disability Duties and Human Rights Assessment exercise has been undertaken as well as a Rural Needs Assessment. These documents are available online. No significant impacts have been identified at this stage and, therefore, it is determined that full

impact assessments are not required. However, your views on these matters and any evidence you wish to be considered can also be provided in your response to the consultation.

How to Respond:

The consultation questions are listed in **Annex A**. A word version template for response can be accessed online via the following link should you wish to provide a hard copy/electronic response as opposed to completing the online questionnaire: insert link

You can email your responses to: OrgChgDir@health-ni.gov.uk.

What Happens Next

Following the close of the consultation on **24 September 2021**, all responses and feedback will be collated for

review by the Department of Health and a consultation report will be produced.

The consultation report will be shared with responders and published on the Department's website.

When you reply, it would be very useful if you could confirm whether you are replying as an individual or submitting an official response on behalf of an organisation. If you are replying on behalf of an organisation, please include:

- your name;
- the name of your organisation; and
- an e-mail address.

If you have any queries, or wish to request a copy of this

consultation in an alternate format, please contact the Department using the email address below to make your request: OrgChgDir@health-ni.gov.uk.

Privacy, Confidentiality and Access to Consultation Responses

We will produce a summary of the consultation responses and, in some cases, the responses themselves but these will not contain any personal data. We will not publish the names or contact details of respondents, but will include the names of organisations responding.

For further information on how we will process data and your rights see our Privacy Notice in **Annex B** of this document.

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Introduction

The Department of Health, following the anticipated closure of the Health and Social Care Board on 31 March 2022, will be responsible for decisions previously made by Committees of the Health and Social Care Board.

This consultation is seeking your views on a proposed Family Practitioner Services Independent Appeals process, to be established following the closure of the Health and Social Care Board.

Background

The intention to close the Health and Social Care Board was first announced by former Minister Hamilton in 2015. Subsequently, former Minister O'Neill confirmed the decision to close the Board in October 2016 as part of the wider transformation of the HSC as set out in *Health & Wellbeing 2026: Delivering Together*. In 2020, Minister Swann also endorsed the decision to close the Board.

The closure of the Health and Social Care Board is part of the wider transformation agenda, which will contribute to PfG Outcome 4, "We enjoy long healthy active lives". Further, *New Decade, New Approach* (January 2020) included an Executive commitment to deliver reforms on health and social care.

Subject to legislative provision, we anticipate the closure date of the Health and Social Care Board to be 31 March 2022, with the new arrangements coming into place from the 1 April 2022.

Context

Upon closure of the Board, responsibility for its functions will transfer to the Department. The Department will therefore have responsibility for the lists of family practitioner services (GPs, Dentists, Pharmaceutical and Ophthalmic) and the contracts with those providers.

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.

These Committees are as follows:

- Assessment Panel
- Disciplinary Committee
- Pharmacy Practices Committee
- Reference Committee
- Review Panel
- Local Intelligence Network

Current process

With the exception of the Local Intelligence Network, the Committees are decision-making groups and currently if an individual wishes to make an appeal against a decision taken by any of these other five Committees, the individual would appeal to the Department.

In the case of the decisions made by the Pharmacy Practices Committee, if an individual wishes to make an appeal, they would appeal to the National Appeal Panel (NAP) constituted

by the Department. For the other committees and any appeals that fall outside the scope of the NAP, these appeals are heard by the Department.

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 the respective Committees.

With the closure of the Board and the transfer of the Committees to the Department, a similar, independent layer is required. Therefore, the Department seeks to establish a future appeal process for family practitioner services that is similarly independent and transparent. It is important also that the appeals process is entirely independent of both the respective operational

and operational policy areas
within the Department.

Proposed Structure of Independent Appeals Panel

Our proposed structure for independent appeals is as follows:

1. An independent panel will be created to hear disputes/appeals that would have previously been the responsibility of the Department.
2. The panel should comprise at least 3 members (including the Chair). Panels would comprise (other than the Chair) both those with experience of the discipline and lay members.
3. An independent Chair would be legally qualified and be in post for a fixed term.
4. A panel member(s) with relevant professional experience should be appointed following consultation with such organisations as may be recognised by the Department as representative of the respective disciplines.
5. Other panel members would be lay members to be drawn from a pool to be recruited for this purpose. The pool of lay members would have a fixed term.
6. On any panel drawn together to hear an appeal or dispute there would be equal numbers of panel members (other than the Chair) who have relevant discipline experience and lay members.
7. The Department would provide administrative support which would be provided separately from the associated policy or operational teams.
8. Panel members would receive fees and allowances for their attendance in line with those currently set by Department of Finance / Department of Justice.

We believe this approach would bring a level of clarity and consistency to the disputes/appeals process which will benefit both the Department and the appellant.

We also believe that these arrangements comply with Article 6(1) of the European Convention on Human Rights (ECHR), which applies to many administrative proceedings and which requires that there should be a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Your view on this matter would be welcomed

Proposed process

Moving forward, the Department has decided on a two panel approach;

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

Retention of the National Appeal Panel¹

As the NAP is well established and has a proven record, we believe this panel should be maintained as it is.

By way of illustration, since 1 January 2016, the Department has received 26 appeal requests against decisions of the HSCB's Pharmacy Practices Committee.

For the other family practitioner service providers combined, the total number of appeals to the Department is less than 5.

It has been agreed therefore that the NAP will continue to hear appeals against decisions taken by the Department that would be within the remit of the Pharmacy Practices Committee.

Independent Appeals Panel

A second appeals panel will be established to deal with all other areas of appeal (General Medical Practice, General Dental Practice, General Optometry Practice and any Community Pharmacy appeals that are outside scope of the NAP).

The proposed Family Practitioner Services Independent Appeals Panel will replicate the good practice established by the NAP and will use the principles and

¹ [National Appeal Panel | Department of Health \(health-ni.gov.uk\)](http://nationalappealpanel.nhs.uk)

protocols learned from the implementation and establishment of the NAP.

Using the lessons learned from the existing NAP will mean that operationalisation and implementation of the panel will use the identified best practice of the NAP.

Current NAP membership will be retained and therefore recruitment would only be required for the second independent panel.

[Impact on Legislation](#)

Regulations already provide appeal rights for General Medical Practitioner, General Dental Practitioners, General Ophthalmic Practitioners and Community Pharmacists who have been refused entry to or have been removed from providers' lists.

In addition Regulations also provide appeal rights in terms of the arrangements, contract content and contract disputes for providers. In most cases current legislation points to the Department as responsible for hearing appeals against determinations made by the Health and Social Care Board. We are seeking to develop new appeal processes, as a result of the closure of the Health and Social Care Board and the transfer of responsibility for making determinations to the Department. Appeals against determinations made by the Department in respect of these issues should be independent of the Department. New appeal arrangements will be reflected in new Regulations, replacing previous regulations.

[In summary](#)

Due to the impact of the anticipated closure of the Health and Social Care Board, there is a

requirement to establish an independent appeals process.

The aim of this consultation is to provide you with the opportunity to submit your views and

opinions on the approach proposed to ensure that there is an independent appeals process in place that will deal with all relevant appeals that may be generated post Board closure.

ANNEX A

Consultation Questions

(a word version of the consultation response questions is available on Department's website: [Consultations | Department of Health \(health-ni.gov.uk\)](https://www.health-ni.gov.uk/consultations)).

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)

A large, empty rectangular box with a thin black border, occupying the majority of the page below the question text. It is intended for the respondent to provide their answer to the question.

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>

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)	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>		
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)	Yes	
	No	
<i>If yes, please give details and comment on what you think should be added or removed to alleviate the adverse impact:</i>		

Question 5: Is there an opportunity to better promote equality of opportunity or good relations? (Please Tick)	Yes	
	No	
<i>If yes, please give details as to how:</i>		
Question 6: Are there any aspects of the proposal in the consultation where potential human rights violations may occur? (Please Tick)	Yes	
	No	
<i>If yes, please give details as to how:</i>		

ANNEX B

Consultation Privacy Notice

Data Controller Name: Department of Health (DoH)

Address: Castle Buildings, Stormont, BELFAST, BT4 3SG

Email: OrgChgDir@health-ni.gov.uk

Telephone: 02890525744

Data Protection Officer Name: Charlene McQuillan

Telephone: 02890522353

Email: DPO@health-ni.gov.uk

Being transparent and providing accessible information to individuals about how we may use personal data is a key element of the [Data Protection Act \(DPA\)](#) and the [EU General Data Protection Regulation](#) (GDPR). The Department of Health (DoH) is committed to building trust and confidence in our ability to process your personal information and protect your privacy.

Purpose for processing

The Department of Health has developed an Independent Appeals process policy which is published for public consultation. We are encouraging organisations and institutions to respond. We will process personal data provided in response to consultations for the purpose of informing the strategy. We will publish a summary of the consultation responses and, in some cases, the responses themselves but these will not contain any personal data. We will not publish the names or contact details of respondents, but will include the names of organisations responding.

For the purpose of this consultation the only data we will process is the information provided by the individual when they respond to the consultation, as follows:

Name

Email address

Name of organisation (if responding on behalf of an organisation)

Lawful basis for processing

The lawful basis we are relying on to process your personal data is Article 6(1)(e) of the GDPR, which allows us to process personal data when this is necessary for the performance of our public tasks in our capacity as a Government Department.

How will your information be used and shared

We process the information internally for the above stated purpose. We don't intend to share your personal data with any third party. Any specific requests from a third party for us to share your personal data with them will be dealt with in accordance the provisions of the data protection laws.

How long will we keep your information

We will retain consultation response information until our work on the subject matter of the consultation is complete, and in line with the Department's approved Retention and Disposal Schedule [Good Management, Good Records](#) (GMGR).

What are your rights?

You have the right to obtain confirmation that your data is being [processed, and access to your personal data](#)

You are entitled to have personal data [rectified if it is inaccurate or incomplete](#)

You have a right to have personal data [erased and to prevent processing](#), in specific circumstances

You have the right [to 'block' or suppress processing](#) of personal data, in specific circumstances

You have the right to [data portability](#), in specific circumstances

You have the right to [object to the processing](#), in specific circumstances

You have rights in relation to [automated decision making and profiling](#).

How to complain if you are not happy with how we process your personal information

If you wish to request access, object or raise a complaint about how we have handled your data, you can contact our Data Protection Officer using the details above.

If you are not satisfied with our response or believe we are not processing your personal data in accordance with the law, you can complain to the Information Commissioner at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire SK9 5AF

casework@ico.org.uk