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**ACCESS TO  
MODERN  
MEDICINE  
(SCOTLAND)**

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**DEBATING MATTERS**  
**TOPIC**  
**GUIDES**

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**MOTION:**

**“THE SCOTTISH  
MEDICINES  
CONSORTIUM DOES  
A GOOD JOB OF  
RECOMMENDING  
WHAT DRUGS SHOULD  
BE MADE AVAILABLE  
ON THE NHS”**

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## KEY TERMS

[NHS Top-up care](#)

[NICE](#)

[Cancer Research UK](#)

[Postcode lottery](#)

[QALY](#)

[Scottish Medicines Consortium](#)

# INTRODUCTION

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# NOTES

The Scottish Medicines Consortium (SMC) was established in 2001 as a consortium of NHS Scotland’s 14 Health Boards to provide them with a single source of advice about the value of each new medicine and the patients who would most benefit. The SMC is, to a large degree, a counterpart to the National Institute for Health and Clinical Excellence (NICE), which was established as an agency of the National Health Service (NHS) in 1997. Both agencies were established at a time when vast numbers of new drugs were becoming available to address concerns about the best use of resources and to tackle wide local variations in commissioning practices leading to a situation dubbed as a ‘postcode lottery’, whereby patients’ addresses determine access to particular treatments.

Both the SMC and NICE base their recommendations on a review of evidence of clinical and cost effectiveness for a particular medicine. Whilst there are significant differences in the way in which they operate, many of the underlying issues and themes in the debate about access to modern medicines are common to both the situation in Scotland and that in England and Wales. One of the major differences between the SMC and NICE is the length of time taken to make a recommendation about a new medicine [Ref: [Scotsman](#)]. In about ninety percent of cases the SMC reach a recommendation within four months of a drug becoming available, compared to 12-14 months for NICE whose processes involve a longer period of analysis and several rounds of consultation. However, both organisations are confronted with intensely difficult decisions to make about which new, but expensive, drugs to recommend and both have been dogged by controversy [Ref: [Scotsman](#)].



### Can we put a price on life?

As with NICE, a key task for the SMC is to provide guidance as to whether a new treatment is better than current standard practice. One of the tools both organisations use in this decision making process is the ‘cost per quality adjusted life year’ (or QALY) compared to the existing standard treatment. Whilst neither organisation officially stipulates a cost per QALY threshold, it is widely understood that when the cost of a technology falls below £20,000 per QALY cost is unlikely to be an issue. When costs go above this level the justification for recommending the technology needs to be very strong and recommendations for treatments costing in excess of £30,000 per QALY are very rare.

Many commentators, including those that are sympathetic to the task of the SMC, have questioned the integrity of such cost assessments, asking, for example: ‘How can you quantify the improvements in the life of a carer if a dementia patient gets a drug that slows their deterioration?’ Similarly, critics of NICE argue that the figures used for determining cost effectiveness are plucked out of thin air and lack scientific credibility [Ref: [Independent](#)]. Recent research coming out of the University of Newcastle and elsewhere finds that the public values life far more highly than NICE – between £35,000 and £70,000 a year [Ref: [Northern Echo](#)]. A particular point of contention has been the question of how we value treatments that extend the lives of terminally ill patients by months. In Scotland, the recent case of Michael Gray who submitted a public petition to the Scottish Government to secure funding for a bowel cancer treatment caught the media attention and generated much sympathy for

patients desperate for ‘end of life’ treatments [Ref: [Herald](#)]. NICE has recently announced that it will allow greater flexibility in the recommendations that can be made about the use of end of life treatments.

As an indication that the SMC and NICE are placing too stringent hurdles in front of new drugs, a serious complaint has been made that the UK lags behind other comparable countries in its uptake of new drug treatments. According to the Association of the British Pharmaceutical Industry (ABPI), the trade organisation for drug manufacturers, an extra investment of £403m a year is needed for the UK to achieve the existing average per capita expenditure on cancer medicines in comparable European countries [Ref: [Scotsman](#)]. There have also been wide discussions about the sharing out of drugs. But, concerned about rising drug bills, other governments have expressed an interest in learning from the work of NICE [Ref: [NY Times](#)]. With a limited NHS budget, it is argued that some patients are bound to lose out and therefore tough decisions have to be made.

### Drug rationing is a necessary evil?

Whilst NICE rejects the idea that it is in the business of rationing drugs, and points out that questions of affordability are for government only, it is widely regarded as playing a role in helping to control the growth of NHS expenditure on drugs. Indeed, a recent House of Commons Health Select Committee Report on NICE argues that drug rationing in the NHS is essential and that NICE plays a vital role in this regard [Ref: [Parliament](#)] and calls for more appraisal, not less, by NICE [Ref: [Guardian](#)]. From 2002 the NHS was put under a duty to provide funding

to cover NICE recommendations and NICE point out that their recommendations have led to around an additional £2 billion pounds of drugs expenditure on the NHS.

In Scotland, Dr Ken Paterson, the chairman of the SMC, has also sought to put patients' expectations into perspective, reportedly arguing that it is unrealistic to expect the NHS to fund new drugs costing tens of thousands of pounds that only prolong life by a few weeks or months [Ref: [Scotland on Sunday](#)]. Breakthrough Breast Cancer has challenged this statement, arguing that drug costs in Scotland are a modest part of the total cancer care budget [Ref: [Scotland on Sunday](#)]. Paterson has also, controversially, raised the question of whether the latest medicines should be prioritised for younger patients over the elderly when hard decisions have to be made [Ref: [Herald](#)]. Additionally, he has suggested some pharmaceutical companies deliberately over-emphasise the benefits of their drugs [Ref: [Scotland on Sunday](#)]. The chairman of NICE, Professor Sir Michael Rawlins, has lambasted the pharmaceutical industry for overpricing vital new medicines to boost profits [Ref: [Guardian](#)]. In the interview Rawlins warns of perverse incentives for pharmaceutical company executives to hike the prices of new drugs to help maintain high profits as they enter a period where a lot of their big earning drugs are coming off patent.

### **Deterring innovation or a counter to special pleading?**

According to the ABPI the current situation deters innovation and undermines patient access to modern medicines, especially in the case of rare diseases with small target populations [Ref:

[ABPI](#)]. Andy Powrie-Smith, Director of ABPI Scotland, argues that 'Scotland needs to be seen as a place that fosters innovation' and that this involves supporting 'the innovation of new drugs by giving them to patients' [Ref: [Herald](#)]. The SMC and NICE counter [Ref: [NICE](#)] that the promise of new treatments is a factor they consider when deciding whether the high cost of a new drug justifies its use within the NHS [Ref: [BMJ](#)]. Others have criticised the relationship between drugs companies and patient advocacy groups, implying that the funds that drug companies provide to patient groups are a tacit way of exerting high profile moral pressure on the SMC to recommend their expensive new drugs [Ref: [Independent](#)]. Anne Johnstone, the respected Scottish commentator, has recently questioned whether it is a case of 'Those who shout loudest seem to get what they want' and warned that cancer, with its well-organised and predominantly middle-class lobby, is 'grabbing more and more NHS money and attention' [Ref: [Herald](#)]. The ABPI counter that there are strong codes of conduct governing such donations within the industry and that the relationship is a transparent one.

### **Who decides?**

However, whilst the SMC has become a fulcrum for debate over access to and the cost of a wide array of new drug treatments, the underlying issues are much bigger than whether the SMC has acted effectively. The role of Health Boards in deciding how to implement SMC guidance; the responsibility of politicians towards setting health care priorities; the effectiveness of the pharmaceutical industry; the burdens of regulation; the patient choice agenda and the role of the media in focusing attention on emotive individual cases all need to be taken into consideration

## DEBATE IN CONTEXT CONTINUED...

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and weighed up in this debate. Perhaps one central question raised is whether a national body providing general guidance, based on necessarily uncertain data, can ever satisfy the demands and anxieties of individual patients.

## ESSENTIAL READING

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British Balance Benefit vs Cost of Latest drugs

Gardiner Harris *New York Times* 2 December 2008

Q&A: National Institute for Health and Clinical Excellence

Nigel Hawkes *The Times* 2 May 2008

Medicines man with eye on patient care

Lyndsay Moss *The Scotsman* 25 January 2008

The Big Question: What is Nice's role, and why is it limiting access to Alzheimer's drugs?

Jeremy Laurance *The Independent* 21 November 2006

Excerpt from house of commons debate on NICE

*Parliament Publications and Records*

### For

The lives that slip through the cracks

Anne Johnstone *The Herald* 11 October 2008

Cancer patients 'expect too much from the NHS'

Kate Foster *Scotland on Sunday* 5 October 2008

Health chief attacks drug giants over huge profits

Gaby Hinsliff *Observer* 17 August 2008

Cash for Medicines: Is NICE price right?

Harriet Adcock *The Pharmaceutical Journal* 19 May 2007

Patient Power can Harm your health

Dr Michael Fitzpatrick *spiked* 7 October 2005

### Against

Cancer patients sentenced to an early death by bureaucrats

Russell Miller *The Sunday Times* 9 November 2008

The price of life – it was £20,000. Now NHS drugs body

recalculates

Nina Lakhani *Independent* 12 October 2008

What price cancer victims' drugs?

Carolyn Churchill *The Herald* 2 October 2008

Scotland must foster drug innovation

*The Herald* 8 September 2008

We need cancer drugs. NICE must go

Jonathan Waxman *The Times* 8 August 2008

### In Depth

Terminally ill cancer patients to be given more life extending drugs on NHS after NICE U-turn

Jenny Hope *Daily Mail* 27 December 2008

At last, a life-saving choice for patients

*The Telegraph* 22 December 2008

Do medication top-up fees mean the end of the NHS?

Simon Crompton *Times Online* 8 November 2008

NHS rationing is a reality we should deal with

Libby Purves *The Times* 11 August 2008

Herceptin and early breast cancer: a moment for caution

*The Lancet* 12 November 2007

Can the NHS buy fair access to drugs?

Tom Moberly *Pharmaceutical Journal* 10 November 2007

Should patient groups accept money from drug companies? Yes

Alastair Kent *BMJ* 7 May 2007

Should patient groups accept money from drug companies? No

Barbara Mintzes *BMJ* 5 May 2007

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Response to Health Select Committee Report

*The Royal College of Physicians of Edinburgh (RCPE) 2007*

NHS, IVF, NICE. It's all NBG

Stephen Pollard *The Times* 16 October 2006

NHS bodies have difficult choices to make and judges are not the best people to make them

Stephen Cragg *The Times* 11 November 2005

Is this unqualified Health Secretary really helping the cancer patients?

Mick Hume *Times Online* 11 November 2005

National Institute for Clinical Excellence and its value judgments

Michael D Rawlins & Anthony J Culyer *BMJ* 24 July 2004

Challenges for the National Institute for Clinical Excellence

Alan Maynard, Karen Bloor, Nick Freemantle *BMJ* 24 July 2004

Has NICE eliminated the postcode lottery?

Mark Jones and Ben Irvine *Civitas Health Unit* September 2003

Can we afford the cure?

Jerome Burne *Guardian* 21 March 2002

Government insists NHS pays for drugs approved by NICE

Zosia Kmietowicz *BMJ* 15 December 2001

Can a Nice distinction end a messy NHS?

Sarah Boseley *Public Finance Magazine* 9 July 1999 Gabriel

Weimann *Asian Tribune* 21 February 2007

## BACKGROUNDEERS

### Caught in the web

*Battle of Ideas debate* on FORA.tv November 2008

### Don't have security nightmares

Bill Thompson *BBC News* 21 October 2008

### The internet smokescreen

Tim Stevens *openDemocracy* 21 August 2008

### Policing the internet: Q&A

Oliver Luft *Guardian Media* 31 July 2008

### Select Committee on Culture, Media and Sport Tenth Report: a summary July 2008

### Virtual Caliphate: Islamic extremists and the internet

James Brandon *Centre for Social Exclusion* 11 June 2008

### Suicide and the internet

Lucy Biddle et al *British Medical Journal* 12 April 2008

### At a glance: the Byron Review

*BBC News* 27 March 2008

### Are children safe in the digital world?

*BBC News Have Your Say* 27 March 2008

### Video speech

Viviane Reding *Family Online Safety Institute* 6 December 2007

### China's latest export: web censorship

Holden Frith *Times Online* 10 February 2007

### Why broadcast rules won't work on the internet

Anthony Lilley *Guardian Media* 26 June 2006

### Code is law: on liberty in cyberspace

Lawrence Lessig *Harvard Magazine* 1 January 2000

### Bibliography of internet regulation

*Internet Law and Policy Forum*

## ORGANISATIONS

Alzheimer's Society

Breast Cancer Care

Cancer BACUP

Department of Health

National Osteoporosis Society

NICE

UK National Kidney Federation

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## IN THE NEWS

Kidney cancer drugs available in Wales but not in England  
*The Telegraph* 22 January 2009

Court challenge to NICE over osteoporosis treatment  
*The Times* 19 January 2009

Terminally ill cancer patients to get expensive drugs on the NHS  
*Guardian* 3 January 2009

Asthmatics to be denied life-changing drug twice  
*Sunday Herald* 26 December 2008

NHS to get quicker drug approval  
*BBC News* 26 December 2008

SNP to scrap NHS ban on top-up healthcare  
*The Sunday Times* 7 December 2008

Health service must evolve at same pace as medical world  
*Scotsman* 6 October 2008

Analysis: Are patient protests being manipulated?  
*Independent* 1 October 2008

Health chief attacks drug giants over huge profits  
Gaby Hinsliff *Observer* 17 August 2008

Patients denied access to kidney cancer drugs  
*Scotsman* 7 August 2008

Doctors' leader hits out at 'inhumane' NHS care rules  
*Scotsman* 1 July 2008

Scottish Medicines Consortium Rules Against Breakthrough  
Treatment For Devastating Blood Cancer  
*Medical News Today* 13 May 2008

Should the young get priority over elderly patients?  
*The Herald* 8 April 2008

Dying cancer patient wins battle to get NHS funding for  
treatment

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Rent a home in Scotland and get cancer drugs free  
*The Times* 14 November 2007

Watchdog's U-turn on drug for MS patients  
*Scotsman* 10 September 2007

Cancer drug rejected for NHS use  
*BBC News* 9 July 2007

The great divide  
*Daily Telegraph* 24 April 2007

Charities welcome draft approval for breast cancer drug  
*Guardian* 9 June 2006 9 June 2006

NHS delay on new breast cancer drugs  
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Cancer drug delay 'will cost lives'  
*Daily Telegraph* 10 June 2005

Drug firms in fury over U-turn on Alzheimer's treatments  
*Independent* 2 March 2005

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