

**Minutes of the meeting of the Pharmacy Practices Committee (PPC) held on Thursday 15
October 2020 at 2.00pm on MS Teams.**

The composition of the PPC at this hearing was:

Chair: Ms Fiona O'Donnell

Present: Lay Members appointed by NHS Lothian

Mr John Niven

Mr Keith Kirkwood

Observer: Ms Aleisha Hunter, NHS Lothian

Secretariat: Ms Liz Livingstone, NHS Lothian

1. APPLICATION BY MR MOHAMMED AMEEN

- 1.1 An application by Mr Mohammed Ameen was heard by the PPC on 11 October 2019 and the decision of the Committee was unanimous that the provision of pharmaceutical services at the premises was neither necessary nor desirable in order to secure adequate provision of pharmaceutical services within the neighbourhood in which the premises were located by persons whose names were included in the pharmaceutical list, and accordingly the application was rejected, with the decision issued on 11 November 2019.
- 1.2 Appeals were lodged by Mr Ameen and Pumpherston Community Council.
- 1.3 The National Appeal Panel remitted the decision back to the PPC on grounds that it had failed to adequately narrate the reasons for its decision in relation to two specific and narrow grounds.

2. PROCEDURE

- 2.1 The Chair advised NHS Lothian Board that both she and the lay members (Mr John Niven and Mr Keith Kirkwood) would meet on 15 October 2020 to set out its reasoning on the specific issues. Due to the Covid 19 crisis, the meeting would be held via MS Teams.

2.2 At 14.00 hours on Thursday 15 October 2020, the Pharmacy Practices Committee Chair and Lay Members convened to narrate the reasons for its decision in relation to the following 2 grounds:

- Consideration of letters submitted in support of the application.
- Explanation of the reason why it concluded that any access issues did not prevent the existing services being considered adequate.

2.3 The Chair welcomed the 2 Lay Members to the meeting. When asked by the Chair, members confirmed that the hearing papers had been received and considered. When Lay Members were asked by the Chair to declare any interest in the application, Mr Kirkwood acknowledged as he had done at the PPC hearing on 11 October 2019 that he was a resident in the neighbourhood but had no interests to declare. No Members had any interest to declare.

2.4 The Chair noted that Ms Aleisha Hunter (who has recently joined Primary Care Contracts Organisation) joined the hearing as an observer and would play no part in this hearing.

2.5 The Chair asked for confirmation that the Lay Members fully understood the procedure to be operated during the hearing as explained, had no questions or queries about those procedures and were content to proceed. All confirmed agreement.

3. DISCUSSION

3.1 The Chair read out the National Appeal Panel Disposal.

For the reasons set out above, I shall remit the decision back to the PPC on two specific and narrow grounds. Those grounds are that the PPC has failed to adequately narrate the reasons for its decision in relation to its:

Consideration of letters submitted in support of the applications; and,

Explanation of the reasons why it concluded that any access issues did not prevent the existing services being considered adequate.

The issues which are of concern are set out in paragraphs 4.14 – 4.15 and 4.31 – 4.32 of this decision. I request that PPC address these issues specifically and set out its reasoning.

3.2 The Chair noted the first ground of appeal and read it to the Lay Members.

4.14 - The final issue raised by the First Appellant under this ground of appeal is that the Board did not provide the PPC with updated letters of support from MEPS. The committee considered letters of support which dated from the middle of 2018 which it notes did not assert that the existing services provided were inadequate. The Applicant contends that more current letters of support were submitted which did submit that the existing services were inadequate.

4.15 This is a matter which I consider requires further explanation. If the Board has failed to provide the PPC with the updated letters of support I consider that this may, depending on the circumstances, amount to a procedural defect. If they have been provided and the PPC's decision does not consider them when expressly addressing earlier letters I consider that this would amount to a failure to properly explain the facts and reasons for their decision.

- 3.3 The Chair noted that in relation to the letters submitted in support of the application, the Committee were confident that they had in its possession at the time of the hearing, the most recent support information from the applicant.
- 3.4 The Chair acknowledged that the support information from the Applicant was collated by PCCO and was part of the larger set of papers that was sent to each Committee member prior to the Hearing.
- 3.5 The Chair noted that the Applicant's support documentation from MEPs was dated 2018, and before the Hearing received confirmation from PCCO that this was accurate.
- 3.6 The Chair noted that a full list of the supporting documents is highlighted in section 1.2 of the October 2019 minutes.
- 3.7 The Chair commented that during the Hearing all parties including the Applicant and Interested Parties had confirmed that the hearing papers had been received and considered. The Chair noted that the Applicant had not objected to receiving incorrect copies from PCCO.
- 3.8 The Chair commented that the Committee had not based its decision on earlier letters, but on the letters provided by the Applicant to support his application for the hearing in October 2019.
- 3.9 The Chair confirmed that the Committee did not discount any of the letters received and these were given full attention by the Committee. The Chair remarked that the letters were not ignored, irrespective of the date and irrespective of the incorrect address quoted on some of the applicant's letters of support.
- 3.10 The Chair noted that the main points from the issues raised in the letters were considered during the deliberations and the Committee acknowledged that elected representatives are there to represent their constituents. The Committee had taken time to consider the correspondence.
- 3.11 The Committee agreed that they had concluded and narrated their decision fairly and correctly, by using the documentation that had been provided by the Applicant in support of his application for the October 2019 hearing.
- 3.12 The Committee reviewed the second ground of the NAP decision.

4.31 - The third issue by the Second Appellant is that the PPC failed to properly explain its analysis of the issues with access to the existing pharmaceutical services and has instead focused on the lack of direct evidence of the issues being considered by the Council in the Council's minutes. The particular issue is that the decision of the PPC appears to recognise issues with poor transport connections and difficulty in accessing a GP practice but dismisses these issues so far as they relate to accessing pharmaceutical services on the basis of lack of reference to these issues in the Council's minutes. In this regard, I consider that there has been a failure by the PPC to properly explain their reasoning for concluding that any issues with access to the existing services do not result in the service being inadequate.

4.32 – I should make clear that in reaching this conclusion I make no comment on whether or not any access issues to genuinely interfere with the provision of adequate services. It may well be that there is a good reason for the PPC to conclude that any access issues are not significant or have otherwise been addressed by alternative means. However, given that this is a significant element of the case for the application I consider that the PPC should set out its reasoning clearly in a way which does not give the impression that any issues have been dismissed as they did not appear regularly in the Council's minutes.

- 3.13 The Chair commented that the Committee did not dismiss the issues of access to pharmaceutical services and noted that there were additional factors that the Committee gave attention to; what the application would bring to Pumpherston. The Committee felt that it was in order to consider any evidence of historical support for a pharmacy in the community. It was stated that the Committee values the unique and informed contribution which community councils make – there are two such bodies within the defined area – because of their local knowledge and their connections in the community. It is their role to make the case for improved facilities in their community and the Committee heard of the representations they had made over a number of years to improve the services and to have a facility for use by the community. The Committee upholds its consideration that there was no record of historical support for a pharmacy in Pumpherston.
- 3.14 The Committee agreed to explain their reasoning for concluding that any issues with access to the existing services did not result in the service being inadequate.
- 3.15 The Committee noted that previously there had been a family run pharmacy that closed approximately 25 years ago and during this time families and residents from Pumpherston had accessed other pharmaceutical facilities within the defined area in the application.
- 3.16 The Committee noted that there are currently 7 pharmacies within a 3-mile radius. 3 open at 8.30am, 1 opens at 8.45am and 3 open at 9am during the week. They close weekdays at 6pm except for Boots Almondvale that closes at 6.30pm. 6 pharmacies are open on a Saturday, including 1 (Boots Almondvale) that is also open on a Sunday between 9.30am – 6pm. The Committee commented that local residents therefore had seven day access to the provision of pharmaceutical services and did not consider this inadequate.

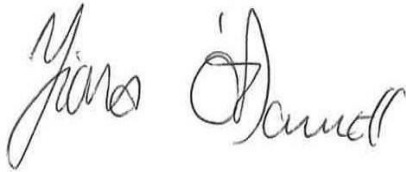
- 3.17 The Committee also noted that one of the above pharmacies offered a home visit service should a patient require a face to face meeting with a pharmaceutical professional. They also noted that Boots charged for delivery, however all the remaining pharmacies offered a delivery service without charge. The Committee had considered the evidence from the Applicant that the delivery service was limited to weekly deliveries but also heard evidence from Interested Parties that they were able to provide urgent deliveries outside those dates.
- 3.18 The Committee noted Ms Gibson had remarked that within Pumpherston there was an elderly population who had difficulty in accessing the ScotMid supermarket, or local café, to collect paper surveys during the application Joint Consultation process. Ms Gibson had kindly put a paper copy of the survey through those resident's doors. The Committee noted during the walkround prior to the hearing that the Scotmid store was located directly opposite the applicants proposed premises. The Committee therefore agreed that access to the proposed pharmacy would prove to be equally difficult for those residents.
- 3.19 The Committee noted that they had accepted the findings in the CAR and did not undervalue the response numbers. They noted that some comments in the CAR referred to patient difficulties associated with accessing a GP facility rather than a pharmacy. However, the Committee acknowledged that there were comments in the CAR concerning issues with no pharmacy being within what they considered to be a reasonable walking distance. The Committee took cognisance of the geography of the area and noted that some residents in Uphall Station would in fact be closer to one or other of the alternative pharmacies in the area. The Committee noted that there is a steep incline and the footpath to Uphall was not well lit or maintained.
- 3.20 The Committee noted the comments relating to different types of transport used by residents to collect prescriptions. These were noted as by car, bus and taxi. In addition for those who were fit enough they could walk. The Committee noted the timetable for local bus services provided for 2 buses in and out of the area. The Committee also noted comments in the CAR that the bus schedule could result in residents having to allow a period of 2/3 hours to complete a visit to a pharmacy or a Doctor. The Committee noted reference to planning to arrive in time for an appointment contributing to the length of journey time. The Committee concluded this referred to Primary Care appointments. The Committee also noted that existing pharmacies offered free pick up services for prescriptions so that customers could plan to collect prescriptions when they were ready.
- 3.21 The Committee considered all aspects relating to access for residents to a pharmacy in and around Pumpherston. In conclusion and in total the access options available as detailed in 3.20 augmented by the home delivery options provided by the 7 pharmacies and the opportunity to have a home visit by one of the existing pharmacies in the area was agreed by Committee to provide an adequate level of service within the defined area. Though not relevant to its deliberations, the Committee felt that existing pharmacies, Primary Care and community groups could all help to make people more

aware of the services which are available and would mitigate the access challenges set out in the CAR.

4. DECISION

Following NAP's request that the Committee narrates the reason for its decision on the specific two grounds, the Committee, for the reasons set out above, considered that the pharmaceutical service into the neighbourhood to be adequate.

The decision of the Committee was unanimous that the provision of pharmaceutical services at the premises was neither necessary nor desirable in order to secure adequate provision of pharmaceutical services within the neighbourhood in which the premises were located by persons whose names were included on the pharmaceutical list, and accordingly the application was rejected. This decision was made subject to the right of appeal as specified in Paragraph 4.1, Regulations 2009, as amended.

A handwritten signature in black ink, reading "Fiona O'Donnell". The signature is written in a cursive style with a large initial 'F' and 'O'.

Fiona O'Donnell
Chair – Pharmacy Practices Committee
2 November 2020