Prior to the consideration of business, the Chairperson asked members to indicate if they had an interest in the application to be discussed or if they were associated with a person who had a personal interest in the application to be considered by the Committee.

No member declared an interest in the application to be considered.

1. APOLOGIES

There were no apologies.

Section 1 – Applications Under Regulation 5 (10)

2. MINUTES

The minutes of the meeting held on Thursday 7th April 2011 PPC[M]2011/06 were approved as an accurate record.

3. MATTERS ARISING NOT INCLUDED ON AGENDA

There were no matters arising from the minutes, which were not already included in the Agenda.

4. APPLICATION FOR INCLUSION IN THE BOARD’S PHARMACEUTICAL LIST
Case No: PPC/INCL02/2011  
Boots UK Ltd – 51/53 Hairst Street, Renfrew PA4 8QP

The Committee was asked to consider an application submitted by Boots UK Ltd to provide general pharmaceutical services from premises situated at 51/53 Hairst Street, Renfrew PA4 8QP under Regulation 5(10) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended.

The Committee had to determine whether the granting of the application was necessary or desirable to secure the adequate provision of pharmaceutical services in the neighbourhood in which the Applicant’s proposed premises were located.

The Committee, having previously been circulated with all the papers regarding the application from Boots UK Ltd considered that the application should be considered by oral hearing.

The hearing were convened under paragraph 3 (2) of Schedule 3 to the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended (“the Regulations”). In terms of this paragraph, the PPC “shall determine an application in such a manner as it thinks fit”. In terms of Regulation 5(10) of the Regulations, the question for the PPC were whether “the provision of pharmaceutical services at the premises named in the application were necessary or desirable to secure adequate provision of pharmaceutical service in the neighbourhood in which the premises are located by persons whose names are included in the Pharmaceutical List.”

The Applicant was represented in person by Mr Charles Tait, assisted by Ms Lesley Elrick. The Interested Parties who had submitted written representations during the consultation period and who had chosen to attend the oral hearing were Ms Emma Griffiths (The Co-operative Pharmacy), assisted by Mr Alan Harrison. Mr Ian Critchley observed the proceedings but took no part.

Prior to the hearing, the Panel had collectively visited the vicinity surrounding the Applicant’s proposed premises, existing pharmacies, GP surgeries and facilities in the immediate area and surrounding areas including: Paisley Road, Inchinnan Road, Swigg Bridge, Hairst Street, Canal Street, Ferry Road, King’s Inch Road, Mayo Avenue, Old Govan Road, Glasgow Road, Dean Park Road and Cockels Loan.

The Committee noted that the premises were constructed and were currently empty. The pharmacy area was not yet fitted out. The Committee had not gained access to the premises and had only viewed these from the outside.

The procedure adopted by the Pharmacy Practices Committee (“the PPC”) at the hearing was that the Chair asked the Applicant to make his submission. There followed the opportunity for the Interested Parties and the PPC to ask questions. The Interested Parties were then asked to make their submissions. After each submission, there followed the opportunity for the Applicant and the PPC to ask questions. The Interested Parties and the Applicant were then given the opportunity to sum up.
The Applicant’s Case

The Applicant advised that the neighbourhood should be that defined by the PPC and NAP on previous occasions as the town of Renfrew, as it was bordered by the rivers Cart to the West, the motorway to the South, the commercial area known as Braehead to the East and the river to the north. This neighbourhood was diverse.

He advised that the population of the area was 20,240 in 2001, which had shown a small growth over time to a population of some 20,600 by mid 2009 and ranges in SIMD ranking from 214 to 5698 with the principle low ranked areas clustered round the town centre. There were only three or four small areas of serious deprivation and typically these areas ranked highly in the geographical access to services ranking of the deprivation rankings.

This application was not for a new contract in Renfrew but for a relocation of an existing contract just less than half a mile away. Boots UK Ltd undertook to close the current premises if the application were granted. The new premises would serve the same population as the current contract within the defined neighbourhood of Renfrew.

The current location was near another pharmacy, was fairly small and limited due to the physical layout of the building with a main support wall separating the dispensing area from the customer area. There was very limited room for alteration or change due to the existence of pillars in the pharmacy which supported the building above.

The current location, due to its restrictions, provided a consultation area which was not easily accessible while working in the pharmacy. It provided limited privacy for addiction services patients who used the pharmacy and limited the availability of space for storage for medicines including controlled drugs.

The restrictions of the currently location also limited space available for the production of Daily Dosette Systems (DDS) trays, of which Boots were frequently asked to take on more. The company had continuing requests for provision and was unable to increase their capacity due to the lack of available space which prohibited the company from safely increasing their activity in this area.

The current location did not allow for ease of access or communication with patients in terms of the pharmacist interaction with the patient, which was difficult due to the construction of the dispensary and the hatch connection to the customer area. This had been further exacerbated by the increase in Pharmaceutical Public Health interactions and would only get worse as the Chronic Medication Service (CMS) developed where there was increased interaction expected.

The application for relocation was an attempt to resolve the issues providing an improvement to the layout which could accommodate all services offered under the pharmacy contract, where currently the layout restricted the pharmacy from providing those services frequently requested of it. It would also allow a suitable location for new pharmacy contract services to develop.

The Applicant had submitted a detailed plan of the proposed layout of the new location...
which the company believed would provide a pharmacy capable of fulfilling the total requirements both of customers and patients along with the demands of the new contract, including CMS, as it developed over the next year.

The pharmacy would open from 8.30am – 6.30pm during the week and would open public holidays excluding Christmas and New Year. This would be an improvement on the current situation and would allow patients to visit the pharmacy before work, after work and when visiting their GP practice.

The Applicant advised that the relocation would provide improved access to the pharmacist for patients by removing physical barriers, both for general interventions and all Pharmaceutical Public Health engagements. It would give greatly improved access to privacy in a consultation room adjacent to the working area where the pharmacist was located.

A dedicated methadone supervision area and increased storage space for addiction service clients would receive a greatly enhanced service and enhanced privacy and security for needle exchange. It would also provide the company with storage capacity to hold more stock and subsequently to take on additional patients to these services.

The enlarged dispensary area and improved shelving would improve stock and prescription storage and would improve the functionality of the dispensary. The current space in the existing premises was not conducive to best practice and in some cases could be dangerous i.e. provision of DDS and could be said to hinder an effective operation. An enlarged DDS preparation area connected to the dispensary would allow the pharmacy to accede to any requests for its service.

The Applicant reminded the Committee that applications considered under the 2009 Regulations were tested against the criteria of necessity or desirability based on the given situation. He advised that this test had to be tempered by the concept developed by Lord Drummond Young in his judgment which suggested that elements of change needed to be considered when looking at whether an application was necessary or desirable to secure the adequate provision of services in a neighbourhood and that PPCs should be aware of and take recognition of changing circumstances when determining such applications.

Mr Tait advised that the Committee would be well aware of the new arrangements which had been introduced under the 2011 amendment Regulations which contained, amongst other things, significant changes to how a PPC should view applications to relocate a pharmacy and especially, the need to remove the Applicant’s current premises from its consideration of the application.

He advised that the amendments made by the 2011 Regulations had been designed to be less limiting in terms of relocations changing the concept of effect from “appreciable” to “significant” for minor relocations and changing how relocations (not deemed minor) were considered. He advised that the current application had been submitted prior to the change in arrangements and was, therefore, to be considered under the 2009 Regulations. This would mean the PPC looking at the question of adequacy and determining this question before moving on to the issues of necessity or desirability. Mr Tait however, suggested that the PPC should take into consideration the direction of travel
that would result from the new arrangements when considering the current application. He believed that this application was desirable if not necessary to secure the provision of adequate services under the 2009 Regulations and even more so under the 2011 Regulations.

**The Interested Parties Question the Applicant**

In response to questioning from Ms Griffiths, Mr Tait advised that the current premises had no further capacity to take on compliance aid patients. He further confirmed that the other branch on Paisley Road was also at near capacity for this service. He did not consider the Braehead branch to be in the same neighbourhood and advised that the contract for Braehead had been granted on the basis that the premises were outwith Renfrew.

In response to questioning from Ms Griffiths regarding statements made by the Applicant in his presentation alluding to “physical barriers” within the current premises, Mr Tait advised that DDA related to staff members as well as patients using the premises. There were several aspects of the current premises which would not comply with DDA legislation including the width of the door in the connecting wall. He did not agree with Ms Griffiths assertion that the DDA legislation was framed to ensure adequate access to services for those less able bodied. He did, however, confirm that there were no physical barriers to patients accessing the customer area.

In response to questioning from Ms Griffiths regarding the consultation room, Mr Tait advised that the room was not ideal due to its location away from the dispensary. He could not confirm whether the room had been accredited by the Health Board.

In response to further questioning from Ms Griffiths regarding the potential refit of the existing premises and how far the company had explored this proposal, Mr Tait advised that Boots had explored the issue of refitting the premises fully both prior to and subsequent to the relocation of the Health Centre.

In response to questioning from Ms Griffiths regarding whether the company had sought to relocate to premises in the other direction, Mr Tait confirmed that this had been considered, however no suitable premises had been found in this direction.

In response to final questioning from Ms Griffith, Mr Tait advised that the “change in circumstances” he had mentioned in his presentation related to the 400 person increase in population that had occurred in the neighbourhood in recent years.

**The PPC Question the Applicant**

In response to questioning from Mr Irvine regarding the Applicant’s assertion that pharmaceutical services were inadequate in the neighbourhood with Boots in its current location, Mr Tait believed this to be the case explaining that although improvements had been made to other community pharmacies in the neighbourhood, the current location of the Boots pharmacy would maintain the current inadequacy in the neighbourhood.

In response to further questioning from Mr Irvine regarding potential adaptation of the
current premises, Mr Tait advised that the only way to improve the current premises would be to move the customer area to where the dispensary area and vice versa. This would mean knocking through the supporting wall. With no access to the area from the other end, such a plan would be inadequate for customers and would not improve communication as the consultation room would not be relocated.

In response to further questioning from Mr Irvine in terms of the pharmacy contract and the move to pharmacies being seen as centres of health care excellence, Mr Tait advised that if the non-health care products were taken away there would remain insufficient space in terms of layout for customers. In addition, this would not provide any additional room for methadone users.

In response to further questioning from Mr Irvine, Mr Tait advised that the size of the new premises was as per the plan submitted. He further advised that the usable space within the current premises was only ¾ of the new premises.

In response to further questioning from Mr Irvine regarding compliance aid patients, Mr Tait advised that Boots operated a hub system for Monitored Dosage System (MDS) patients which tended to be Care Home patients. DDS patients continued to be looked after in the individual branches.

In response to final questioning from Mr Irvine, Mr Tait confirmed that there had been a change in the type of prescriptions being dispensed from the current premises subsequent to the relocation of the Health Centre. Previously the focus had been on walk in patients; however this was not the case now where the business centered mostly on collections. There had not necessarily been a change in the volume of prescriptions.

In response to questioning from Councillor O’Rourke, Mr Tait confirmed that the company had discounted alternative premises in the opposite direction from the town centre because none of the available units had been suitable for Boots requirements.

In response to questioning from Mr Daniels, Mr Tait confirmed that Boots had been trying to relocate this particular branch for approximately three years.

In response to questioning from Dr Johnson, whether the population around the current premises would be deprived of services if the application were to be granted and the pharmacy moved, Mr Tait suggested that the population would be deprived of services if the pharmacy did not move. He did not consider the distance from the new premises to be significant at around 400 meters and suggested that patients visiting the current premises were actually coming from around the area of the new premises. He felt that the relocation would improve patient choice.

In response to further questioning from Dr Johnson asking whether three pharmacies were needed towards the town centre when two could be considered adequate, Mr Tait advised that the neighbourhood defined as Renfrew required four community pharmacies.

In response to further questioning from Dr Johnson regarding whether it would be cheaper to improve the current premises rather than fit the new premises to comply with DDA legislation, Mr Tait advised that the proposed relocation wasn’t solely to fulfill DDA
requirements. It was needed so that the pharmacist could interact with the patients and be involved with that interaction. At the moment the consultation room was separate from the dispensary and the pharmacist was unable to provide appropriate contact for many services.

In response to final questioning from Dr Johnson regarding whether the layout could be better if the company’s retail planning policy did not have to be followed, Mr Tait advised that to make the current space functional, the 2ft sand stone supporting wall would need to be removed. In doing this, there would be no space for customers and the available space would be unusable.

In response to questioning from the Chair, the Applicant confirmed that there was available space between the counter and door of the pharmacy for patient access.

In response to further questioning from the Chair, the Applicant advised that if the non-health care products were removed from the premises, the space made available would not be sufficient to hold a consultation room, a dispensary and an area for methadone users. The only way to obtain space for all these things was to utilize the space on the other side of the supporting wall.

There were no questions to the Applicant from Mrs Paton.

The Interested Parties’ Case – (Ms Emma Griffiths – The Co-operative Pharmacy)

Ms Griffiths thanked the Committee for providing her with the opportunity for making her case.

She advised that she was not going to labour the point of neighbourhood given that this had been defined several times in the past and she could see no significant change since 2009 that would lead to a change in this consideration.

She advised that this application should be considered as a new contract given that it was received prior to the new arrangements coming in and so must be determined under the previous arrangements and should satisfy the Regulations prior to the 2011 amendments.

Ms Griffiths suggested that the current level of service provision within the neighbourhood was adequate. There was sufficient capacity in the network to deal with any overspill from any of the other pharmacies.

She reminded the Committee that one of the pharmacies in the neighbourhood (Rowlands) had recently won the Community Pharmacy of the Year award. The Co-operative Pharmacy offered all services and was DDA compliant.

Ms Griffiths advised that the Applicant’s DDA argument was inappropriate and reminded the Committee that the purpose of the DDA legislation was to remove barriers for people to access services. In terms of the neighbourhood, she did not consider there to be any physical barrier to stop less able patient accessing services. She further suggested that if there was such an issue in the Applicant’s branch the current premises could be refitted. She suggested that The Co-operative Pharmacy had undertaken such a refit to remove
OTC products to allow them to meet the demand caused by the relocation of the Health Centre.

She advised that Mr Tait had alluded to the level of business at the current premises changing and this, in Miss Griffith’s opinion, was the basis for the application. Boots needed to retain their business regardless of the offering in the premises. If, as Mr Tait had suggested, the matrix of the business had changed and more focus was placed on repeat prescriptions then this should allow them to open up the pharmacy to make the adjustments to take the pharmacist closer to the consultation area.

She advised that there was no guarantee that Boots UK Ltd would close the existing premises if the application were granted and this could result in a situation where the number of pharmacies would increase to 5 when 4 was sufficient.

Ms Griffiths advised that the other pharmacies in the area had made profitable businesses which were DDA compliant and had been refitted prior to the relocation of the Health Centre. She did not see why Boots UK Ltd couldn’t do the same following the Health Centre’s move.

Ms Griffiths averred that this application was not necessary or desirable. She further stated that the application should be determined under the 2009 Regulations as amended and if granted would have an appreciable effect on other contractors. She respectively requested that the application be refused.

**The Applicant Questions Ms Griffiths**

In response to questioning from Mr Tait, Ms Griffiths reiterated her interpretation that the DDA legislation was primarily drafted to address access to goods and services. She agreed with the Applicant that the framework contained provisions for less able employees, but stipulated that the essence of the legislation was around access. She further advised that Boots could undertake a refit which would allow the premises to comply with DDA.

In response to final questioning from Mr Tait, Ms Griffiths advised that The Co-operative Pharmacy had reduced the levels of the OTC offerings.

**The PPC Question Ms Griffiths**

In response to questioning from Dr Johnson, Ms Griffiths agreed that Boots UK Ltd’s application to relocate the pharmacy was more to do with the ease of which they delivered services, rather than the actual delivery of the services. She did not believe the issues with the premises were insurmountable and could indeed be worked around.

In response to final questioning from Dr Johnson, Ms Griffiths advised that there was no service at which The Co-operative Pharmacy was at capacity.

In response to questioning from Mr Irvine regarding how Ms Griffiths knew the services provided by Boots UK Ltd were adequate, Ms Griffiths advised that The Co-operative Pharmacy had not had any complaints from customers saying the service at Boots was...
not adequate, nor had they had any MDS patient moving from Boots to The Co-operative Pharmacy.

In response to further questioning from Mr Irvine, Ms Griffiths advised that there had been a marginal increase in the number of walk-in prescriptions since the relocation of the Health Centre.

In response to further questioning from Mr Irvine, Ms Griffiths advised that The Co-operative Pharmacy had been refitted in October 2010 and that it was approximately 909 square feet.

**There were no questions to Ms Griffiths from Councillor O'Rourke, Mr Daniels, Mrs Paton or the Chair.**

**Summing Up**

**Ms Griffiths** advised that the application was not necessary or desirable under the 2009 Regulations and should be refused.

**Mr Tait** advised that the question had been asked of staff this morning “Are you an architect?” The answer had been “No”. This was the case with Ms Griffiths as well. The best architectural advice had been that it would be difficult to alter the current premises.

He advised that the application was for a relocation of premises and not for a new contract. There was no suggestion that Boots UK Ltd would remain open in the current premises. He believed that the PPC needed to bear in mind legislative changes including those relating to the non minor relocation of premises, which stated that the premises currently listed on the Pharmaceutical List should be disregarded from the consideration of the application.

He questioned whether the situation in Renfrew would be adequate if there were three pharmacies and suggested that four were needed. He advised that in order to survive and continue to provide services envisaged under the contract, the pharmacist needed to be able to have more face to face contact with patients, which was not possible within the current premises. The pharmacy needed to move.

If the application was not necessary, it was certainly desirable for the maintenance of adequate pharmaceutical provision in Renfrew and should be granted.

Before the Applicant and Interested Party left the hearing, the Chair asked both Mr Tait and Ms Griffiths to confirm that they had had a full and fair hearing. Both confirmed individually that they had.

The PPC were required and did take into account all relevant factors concerning the issue of:-

a) Neighbourhood;

b) Adequacy of existing pharmaceutical services in the neighbourhood and, in particular,
whether the provision of pharmaceutical services at the premises named in the application were necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located.

In addition to the oral submissions put before them, the PPC also took into account all written representations and supporting documents submitted by the Applicant, the Interested Parties and those who were entitled to make representations to the PPC, namely:

a) Chemist contractors within the vicinity of the Applicant’s premises, namely:
   - The Co-operative Pharmacy, 4 High Street, Renfrew PA4; and
   - Rowlands Pharmacy – 9 Hairst Street, Renfrew PA4.

b) The Greater Glasgow & Clyde Area Medical Committee (GP Sub-Committee);

c) The Greater Glasgow & Clyde Area Pharmaceutical Community Pharmacy Sub-Committee;

The Committee noted that in accordance with the requirement to consult the public, notification of the application had been sent to:

d) - The Paisley Daily Express run on 21st January 2011 – no responses were received;

e) - Renfrewshire CHIP – no response was received during the consultation period;

f) The following community councils:
   - Renfrew – no response received.

The Committee also considered:-

g) The location of the nearest existing pharmaceutical services;

h) The location of the nearest existing medical services;

i) Demographic information regarding post code sectors PA4.8 and PA4.0;

j) Information from Renfrewshire Council Housing Land Supply regarding future plans for development within the area;

k) NHS Greater Glasgow and Clyde plans for future development of services;

l) Patterns of public transport in the area surrounding the Applicant’s proposed premises;

m) Information regarding the number of prescription items and Minor Ailment Service activity undertaken by pharmacies within the consultation zone;

n) Applications considered previously by the PPC for premises within the vicinity; and
A tabled plan of the premises provided by Boots UK Ltd.

**DECISION**

Having considered the evidence presented to it, and the PPC’s observation from the site visit, the PPC had to decide firstly the question of the neighbourhood in which the premises to which the application related were located.

The Committee considered the various neighbourhoods put forward by the Applicant, and the Interested Parties, in relation to the application. The Committee considered that the neighbourhood should be defined as follows:

North: the River Clyde;
East: from Junction 26 of the M8 motorway north along the A736, Mayo Avenue and across open land to the River Clyde;
South: M8 motorway – where it crossed the White Cart Water and west along the line of the motorway to Junction 26; and
West: Black and White Cart Waters.

In the Committee’s opinion the River, Waters and the M8 motorway formed significant physical boundaries. The A736 was a significant trunk road marking a differentiation between residential and industrial/retail areas. Mayo Avenue also formed a boundary.

**Adequacy of Existing Provision of Pharmaceutical Services and Necessity or Desirability**

Having reached that decision, the PPC were then required to consider the adequacy of pharmaceutical services within that neighbourhood, and whether the granting of the application were necessary or desirable in order to secure adequate provision of pharmaceutical services in that neighbourhood.

The Committee noted that within the neighbourhood as defined by the PPC there were currently four pharmacies, including the premises from which Boots wished to relocate from at 118/120 Paisley Road.

The Committee considered the Applicant’s various reasons for granting the application and while they agreed they were commendable, did not feel they led to a conclusion that the current service in the area was inadequate.

The Committee noted the Applicant’s comments regarding the recent amendment Regulations and how this would impact on applications of this type; however they were mindful of the specific instruction from the Scottish Government that any application received prior to 1st April 2011 must be considered under the framework in place at the time.

Having regard to the overall services provided by the existing contractors within the vicinity of the proposed pharmacy, the number of prescriptions dispensed by those contractors in the preceding 12 months, and the level of service provided by those contractors to the neighbourhood, the committee agreed that the neighbourhood were currently adequately
served.

In accordance with the statutory procedure the Chemist Contractor Member of the Committee, Kenneth Irvine left the room during the decision process:

DECIDED/-

The PPC were satisfied that the provision of pharmaceutical services at the premises of the Applicant were not necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located by persons whose names are included in the Pharmaceutical List and in the circumstances, it were the unanimous decision of the PPC that the application be refused.

The Chemist Contractor Member of the Committee Kenneth Irvine rejoined the meeting at this stage.

5. MATTERS CONSIDERED BY THE CHAIR SINCE THE DATE OF THE LAST MEETING

The Committee having previously been circulated with Paper 2011/27 noted the contents which gave details of matters considered by the Chair since the date of the last meeting:

Minor Relocation of Existing Pharmaceutical Services

Case No: PPC/MRELOC02/2011 – Lloydspharmacy Ltd, 18/20 Burnbrae Avenue, Linwood PA3

The Committee considered the action taken by the Chairman on an application for a minor relocation of a NHS Dispensing contract currently held by Lloydspharmacy Ltd, at the above address.

The Committee noted that the application fulfilled the criteria for a minor relocation under Regulation 5 (4) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 as amended.

The Committee noted that the Chairman had granted the application, having been satisfied that the application fulfilled the requirements laid down in the Pharmaceutical Regulations.

Case No: PPC/MRELOC03/2011 – Lloydspharmacy Ltd, 2/4 Dubbs Road, Port Glasgow PA14

The Committee considered the action taken by the Chairman on an application for a minor relocation of a NHS Dispensing contract currently held by Lloydspharmacy Ltd, at the above address.

The Committee noted that the application fulfilled the criteria for a minor relocation under Regulation 5 (4) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 as amended.

The Committee noted that the Chairman had granted the application, having been satisfied
that the application fulfilled the requirements laid down in the Pharmaceutical Regulations.

NOTED/-

6. NATIONAL APPEALS PANEL DETERMINATION

The Committee having previously been circulated with Paper 2011/28 noted the contents which gave details of the National Appeals Panel’s determination of appeals lodged against the Committee’s decision in the following cases:

Farhat & Ramzan Ali, 1371 Barrhead Road, Glasgow G53 7DA (Case No: PPC/INCL08/2010)

The Committee noted that the National Appeals Panel had dismissed the Appeal submitted against the PPC’s decision to refuse Mr & Mrs Ali’s application to establish a pharmacy at the above address. As such their names were not included in the Board’s Provisional Pharmaceutical List, and the file on the application had been closed.

7. ANY OTHER COMPETENT BUSINESS

There was no other competent business.

8. DATE OF NEXT MEETING

The next meeting of the Committee would take place on 16th June 2011.

The meeting ended at 1.40pm