

NOT YET ENDORSED AS A CORRECT RECORD

Pharmacy Practices Committee (03)
Minutes of a Meeting held on
Monday, 3 June 2013 at 12.15pm in
LMC Offices, 40 New Street
Glasgow G4 9JT

PRESENT:	Mr Ross Finnie Ms Maura Lynch Councillor Luciano Rebecchi Dr James Johnson Mr Gordon Dykes	Deputy Chairman Deputy Lay Member Deputy Lay Member Non-Contractor Pharmacist Member Contractor Pharmacist Member
IN ATTENDANCE:	Ms Tracey Turnbull Mrs Gillian Gordon Ms Elaine Coull	Legal Advisor, CLO Secretariat, NSS SHSC CLO (Observer)

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.

ACTION

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

1. APOLOGIES

Apologies were received from Alan Fraser

2. MINUTES

The minutes of the meeting held on 28 November 2012 (PPC(M)2012/06) were approved as an accurate record.

The Minutes of the meeting held on 14 March 2013 (PPC(M)2013/01) could not be approved as there were insufficient members present who had attended present.

3. MATTERS ARISING NOT INCLUDED ON AGENDA

There were no matters arising from the minutes.

Section 1 – Applications Under Regulation 5 (10)

4. APPLICATION FOR INCLUSION IN THE BOARD'S PHARMACEUTICAL LIST

Case No: PPC/INCL01 /2012

Mr Gazanfer Ali of Vitalis Healthcare Ltdn – 59 Cambridge Street, Glasgow G3 6QX

The Committee had been advised by the Chair of the National Appeal Panel to re-consider an application submitted by Mr Gazanfer Ali to provide pharmaceutical services from premises situated at 59 Cambridge Street, Glasgow 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 Mr Ali agreed that the application should be considered by oral hearing.

The hearing was 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 was whether "the provision of pharmaceutical services at the premises named in the application was necessary or desirable to secure adequate provision of pharmaceutical service in the neighbourhood in which the premises were located by persons whose names were included in the Pharmaceutical List."

The Applicant appeared in person. The Interested Party who had submitted written representations during the consultation period and who had chosen to attend the oral hearing was Mr David Greer - Boots UK Ltd) accompanied by Mr Charles Tait (Boots UK Ltd).

Prior to the hearing, the PPC had collectively visited the vicinity surrounding the Applicant's proposed premises, existing pharmacies and GP surgeries in the immediate area of Garnethill and Cowcaddens.

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 Party and the PPC to ask questions of the Applicant. The Interested Party was then asked to make his submission. After the submission, there followed the opportunity for the Applicant and the PPC to ask questions of the Interested Party. The Interested Party and the Applicant were then given the opportunity to sum up.

The Applicant's Case

Mr Ali began by confirming the boundaries of the neighbourhood (referred to as Garnethill/Cowcaddens) which had been agreed at the last meeting. He also made reference to the adjacent neighbourhood of Woodside where the bulk of residents in his neighbourhood would access GP services and commented on the inadequacy of pharmacy services here, particularly in relation to the new Pharmacy Contract.

He then moved on to consider the pharmacy services provided in Garnethill/Cowcaddens and highlighted physical access problems of 2 of the 3 existing pharmacies. He also contended that the existing pharmacies largely catered for the transient city centre population and did not, therefore, meet the government's "Right Medicine" strategy which was underpinned by the assumption that pharmaceutical services would be provided to meet the needs of the local population.

Mr Ali referred to local ward statistics and research (Access to Pharmacy Services for BME Population), which he had commissioned. This showed that the local area had a very diverse population and that a high proportion of BME residents had faced some form of language or cultural barrier in accessing the services. He stated that his survey and FOI had shown that the current providers did not attempt to engage with the service users in their own language and that the NHS interpreter service had only been used once. In addition, a "Mystery Shopper" exercise he had commissioned showed that drugs (aspirin) were just given to someone who did not speak English without any questions being asked; this breached patient rights. He contended that the existing provider was well aware of these shortcomings and had done nothing to engage with the community. Based on these results, he argued that the provision of the services was not adequate to meet the needs of the local population.

From his standpoint, the service he intended to provide would meet the needs of the whole population in the locality in that he had a diverse, multilingual team, comprising members of his immediate family; he was also able to speak in several languages and was a qualified pharmacist and another member of his team was a qualified Dispenser. In addition he intended to employ others from within the community and had had a number of well qualified people expressing an interest in working with him. He also referred the Committee to the letters of support he had received from local community groups, including the Chinese Community Development Partnership who were formally supporting his application. His premises were located in the heart of the community and could actively engage with them. The fact that he would be using space in the building to offer treatment rooms to others would also help in the engagement with the community and help to offset overheads.

He asked that it be noted that his application was being brought forward in the context of the new contract, the Patient Rights Act and the aspirations of the Scottish Government set out in the Healthcare Quality Strategy for NHS Scotland. He would meet these by being person-centred, safe and effective.

The Interested Party Questions the Applicant

In response to questioning from Mr Greer, Mr Ali stated that he believed the population in the area to be about 5,000 with about 28% of that being BME. Mr Greer thought it was 2,500 and that the 5,000 referred to the whole of the city centre. He also argued that a large proportion of the BME population had been born in this country.

Mr Ali said the difference he would make would be that the service would be accessible to those who currently do not take advantage of it because of the language barrier. When asked about the evidence for this, Mr Ali referred to the letters of support he had submitted along with his reports and research which all referred problems with access. He confirmed that he had commissioned the research from Glasgow Caledonian University.

Mr Ali was then asked if there had been any complaints to the Health Board about the current service and replied that he was not aware of any but it was a well known fact that people did not complain. On evidence of an alleged breach of the Patient Rights Act, Mr Ali referred to the mystery shopper experience where it was shown more than once that medicine was sold without asking questions because of the language barrier. He confirmed that he had not taken this forward by making a complaint as he believed there was no mechanism for this. He confirmed that he had not taken the matter up with Boots at the time either believing that they had sufficient notice of their shortcomings from his original application which they had been aware of since 2012.

Regarding the translation service, the only evidence Mr Ali had was that from his FOI request which showed that it was not used. He did not know if Boots had anything else in place but the mystery shopper experience would indicate that they did not.

The PPC Question the Applicant

In response to questioning from Mr Dykes, Mr Ali stated that he would be catering for a population who were currently not accessing pharmaceutical services. His business would be more of a community project where they could access pharmacy services and also non core services. He indicated that if it was possible to operate as a charity, he would apply to do so.

Mr Ali confirmed that he was currently a locum pharmacist and that Vitalis owned the property. He stated that he did not use information from his own pharmacy work to build his evidence. This had been done in conjunction with Glasgow Caledonian University, who interviewed people coming out of the pharmacies, developed with advice from a lecturer at Napier University with expertise in market research.

Regarding the staffing of the pharmacy, Mr Ali said that initially he would be using his immediate family members. He envisaged that renting out treatment rooms would give an additional income stream and help to offset the costs of running the pharmacy and to pay for staff. He would rent the rooms to people like acupuncturists and raiki practitioners. As the premises were in the community, such additional services would also attract customers.

In response to questioning from Councillor Rebecchi, Mr Ali maintained that Boots did seem to be discriminating against local people based on his research, regardless of the PR effect.

He stated that his staff were multi-lingual but were not trained interpreters and they would all gain experience working in other pharmacies before they worked for him so that they had healthcare experience. He confirmed that none of his staff were competent in sign language at the moment.

Mr Ali confirmed that he would be open until 9pm each day, even Sunday as the local community, particularly the Chinese, worked odd hours so they needed out of hours access. He did concede that this may not be practicable in the long term and that he would have to see how busy the premises were. He said that the Chinese community did make use of Chinese doctors but this was a service that they had to pay for.

In response to questioning from Ms Lynch, Mr Ali stated that there would be 7 members of staff, mostly family, in the shop at any one time who would be able to cover all the core languages and help would be available to for the non core languages. The staff would be working in all areas of the shop and not just the pharmacy; he would be the only pharmacist initially but he hoped to bring in another one from the BME community in the area.

Mr Ali confirmed that the research commissioned from Glasgow Caledonian was carried out on a commercial basis and was not academic research. With regard to the 96% who said they were not offered translation services, he stated that Boots may have such a service but they were not offering it so there was no attempt to engage.

In response to questioning from Dr Johnson, Mr Ali said that he did not know why the Chinese Community Development Partnership had supported him but not Mr Houlihan. He thought it may be that this was because Mr Houlihan's pharmacy was in Possilpark and there was no Chinese population there. He could not comment on why, if there was a need for a specific Chinese service, the community had not asked for it.

He stated that when non English speakers visited the GP, the NHS interpretation service was used on about 2000 occasions.

Mr Ali confirmed that he was willing to provide additional services to care homes, especially if they had BME residents, and would do what the health board required. He acknowledged that NHS would not fund non-core services and that the resident population was not wealthy but he envisaged that he would not charge for doing something like translating a hospital letter. While the business would be part of the community offering treatment rooms, interpretation and health and well-being services, he needed the pharmacy contract to bring people in to allow all these to happen.

He acknowledged that his premises were very close to another pharmacy but the question was about accessibility to and not adequacy of the service.

In response to questioning from the Chair about whether the perceived language problem might or might not be masked by the patient being accompanied by someone who spoke English, Mr Ali said that this could be possible. He, however, stated that it was up to the pharmacist to offer translation services if someone came in who did not speak English and from his evidence Boots were not doing so. They did not appear to be dealing with the language problem and only wanted to make the sale. In one of the mystery shopper visits, there was extensive dialogue between the staff in the shop and another customer but the

individual was allowed to go away with the medicine without any questions.

The Interested Party's Case – Mr David Greer (Boots UK Ltd)

Mr Greer thanked the Committee for allowing him to present his case.

He indicated that he agreed with the applicant's definition of the neighbourhood and that Boots operated 3 pharmacies there plus one within one hundred yards of the boundary and several others within walking distance, including one which was open from 7am until midnight six days a week and 9am until 6pm on Sundays. He contended that there was more than adequate provision of pharmaceutical services in the area. Boots provided all the necessary services and also delivered to care homes across the city.

Turning to the language question, Boots had a list of multi-lingual pharmacists working in the Glasgow area and had provided a list to the Health Board. The languages included: Spanish, Italian, Portuguese, Urdu, Punjabi, Farsee, Cantonese and Czech. While the pharmacists could not guarantee to be in any particular shop at any one time, they were freely available by telephone. In addition as a nationwide company, they had access to the whole of the Boots network by telephone. They had also started using smartphone and tablets to help with translation and enhance communication. As a back up there was also the NHS interpretation service available. So if there was a language problem, they had the resources to help patients.

The proposed new pharmacy did not offer anything that was not already available and appeared to be based solely on the linguistic ability of the applicant and his staff. Boots had received no complaints from customers and he believed that they offered some of the best services in the country.

The Applicant Questions the Interested Party

In response to questions from Mr Ali, Mr Greer said that since the last PPC the Sauchiehall Street store had engaged with the Chinese Community over an issue with baby milk and there were signs in Chinese in the store. In addition, they had developed the use of smartphones and used tablets to assist with language difficulties. He imagined that if they were not using the Health Service translators, then the stores must be using the internal network.

Regarding opening hours and Sunday opening, Mr Greer stated that Sauchiehall Street opened until 6pm and there was a midnight pharmacy at Central Station. They had written to the health board to see if there was a demand for further opening but had received no reply.

Regarding the levels of delivery, Mr Greer indicated that Sauchiehall Street was the hub for a city wide delivery service.

He confirmed that there were leaflets in the stores which told people how to complain to the health board if they were dissatisfied with the service and there were also details on the till receipt. They could use Boots internal network of interpreters to assist with this. He

confirmed that they did not have a Standard Operating Procedure for dealing with complaints from non-English speakers but this was something they could look at.

Mr Greer stated that he was unaware of any special provisions that Boots in Manchester's Chinatown area made. He was also unaware that the Garnethill/Cowcaddens area was known as Glasgow's Chinatown. Mr Ali referred to the report from Manchester University, which formed part of his evidence, and concerned the translation tools available in businesses in Chinatown which had made no reference to the ability to phone other shops and therefore there was no evidence that such a facility existed. Mr Greer replied that it may be an issue for Manchester but not Glasgow.

Mr Greer confirmed that Boots did carry out blood pressure checks and diabetes assessments. He could not say whether these services were taken up by the transient or local community but the numbers were high. He stated that they had also run smoking cessation clinics specifically for the Chinese community. All was evidence that Boots did engage with the community.

In response to a question about whether a bespoke pharmacy such as Mr Ali was proposing would make any of the Boots stores unviable, Mr Greer replied that he could not say although it would put the stores under pressure.

Referring to Mr Ali's survey, Mr Greer stated that he felt this was inadequate and subjective.

The PPC Question the Interested Party

In response to questioning from Mr Dykes, Mr Greer said that Boots believed that everyone deserved a good service, regardless of whether they were part of the transient or local community and they endeavoured to give this. He acknowledged that there were no visible notices in the stores that a translation service was available and said that action could be taken to address this; individual store managers had the authority and facilities to provide these if necessary in their local community.

Mr Greer stated that Boots did comply with the Patient Rights Act and had just put in a report to the Health Board which detailed each store's performance.

He also indicated that the commercial environment was very challenging at the moment, especially for Sauchiehall Street as Buchanan Street was the main shopping area now. It would continue to be challenging with the expansion of the Buchanan Galleries and the fact that offices were moving from the city centre.

He stated that he could not see how the staffing levels proposed in Mr Ali's pharmacy could be viable and Boots certainly could not match that.

In response to questioning from Councillor Rebecchi, Mr Greer replied that if staff were giving poor customer service, he would expect this to be addressed through training to ensure that staff knew the facilities which were available and how to offer and access these. He knew of at least one member of staff who was trained in sign language.

In response to questioning from Ms Lynch, Mr Greer said that he was last in the Sauchiehall

Street branch last week and there were signs in Chinese in the baby department which were there as a result of the campaign about baby milk. He also said that if there were concerns expressed by the BME communities, the managers locally would deal with these and take action to get to know their local community. He cited the smoking cessation clinics for the Chinese community as an example of engagement. Regarding the use of the NHS Interpretation service, he said that Boots would use their in-house facilities first (list of staff and the languages spoken, phone other branches; smartphone and tablet) which would be why it was not heavily used by them.

In response to questioning from Dr Johnson, Mr Greer stated that as far as service to the BME community was concerned, the population was relatively stable and many were now 2nd or 3rd generation where language was no longer a barrier so there was little need for an expansion to the services offered.

In response to questioning from the Chair, Mr Greer said that Boots were not ignoring the problem but did not believe that a problem existed. He had visited the Sauchiehall Street store and asked about any issues with language and was told that they dealt with these in store or by phone. He believed that if there was a huge issue, Boots would have received complaints from the Health Board or through their own customer care staff. There was no evidence of any complaints.

Summing Up

Mr Greer stated that in his view the service provision was adequate in terms of culture and language. He believed that the applicant had failed to demonstrate any meaningful inadequacy in the pharmaceutical service provision in the neighbourhood. If anything the neighbourhood was among the best in terms of pharmacy provision available within the whole of Glasgow and possibly Scotland.

Mr Greer acknowledged that the service in store could be improved and would be going back to his organisation with suggestions for improvement. However, although there were some issues within the neighbourhood, only a small percentage of the customers were affected. Any attempt to improve translation services should be done by promoting and developing existing services rather than granting an additional pharmacy contract, therefore the application should fail.

Mr Ali began by clarifying that the Baby Milk Campaign referred to by Boots was a restriction on the number of units which could be bought. This was in response to bulk buying of baby milk to send to China, where there had been problems. It was not an attempt to engage with the community.

He stated that there was clearly no evidence presented on the day which refuted his findings that the existing pharmacy service was inadequate in the area. He had presented hard evidence to show that there were types of people in the community who had significant

problems accessing pharmacy services. He quoted from the NHS Guidance Notes of 31st March 2011 which stated that the population should have access to the full range of pharmaceutical services which was particularly relevant in relation to this diverse local community and concluded that Boot's failure to meet this requirement was also a breach of the Patient Rights Act.

Before the Applicant and Interested Party left the hearing, the Chair asked the Applicant and Mr Greer to confirm that they had had a full and fair hearing. Both parties confirmed individually that they had and then left.

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 Applicants' premises, namely:

Boots UK Ltd – 6 pharmacies
Lloyds Pharmacy Ltd, 3 pharmacies
Houlihan Pharmacy Group, Possil
Reach Pharmacy
L G Pharmacy

had made representations to the Committee.

The Committee noted that:

High Street Pharmacy, 128 High Street Glasgow
Abbey Chemist. 144 Trongate, Glasgow
Woodside Health Centre Pharmacy, Barr Street, Glasgow
Park Road Pharmacy, 405 Great Western Road, Glasgow

were consulted as part of the statutory process, but had not taken the opportunity to respond within the consultation time period.

- b) The Greater Glasgow & Clyde Area Medical Committee (GP Sub-Committee) had made representation.

- c) The Greater Glasgow & Clyde Area Pharmaceutical Community Pharmacy Sub-Committee had made representation.

The Committee noted that in accordance with the requirement (Paragraph 2, Schedule 3) to consult those who might use the pharmaceutical services provided (if the application were granted), notification of the application had been sent to:

- d) Public Involvement Group CHCP – representation received

- e) The following community councils:

Anderson - no response was received;
Garnethill – no response was received;
Woodlands & Park – no response was received;
Woodside – no response was received;

- f) The following elected representatives;

Baillie Dr Nina Baker – no response was received;
Councillor Philip Braat – no response was received;
Councillor Martin Docherty – no response was received;
Councillor Gordon Matheson – no response was received;
Ms Sandra White MSP – no response was received;
Mr Anas Sarwar MP– no response was 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 G1.2, G2.3 and G3.6.
- j) Information from Glasgow City Council's Development & Regeneration Services advising of the known developments within a one mile radius of the proposed premises. Glasgow City Council's Department of Roads and Transportation had also been consulted.
- 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) Complaints received by the Health Board regarding services in the area.

- o) Applications considered previously by the PPC for premises within the vicinity;
- p) The Pharmaceutical Care Services Plan;
- q) the letters received from representatives of the Chinese Committee

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 that the neighbourhood should be defined as follows:

North: Dobbies Loan and M8

East: North Hanover Street

South: Bath Street

West: M8

Although the M8 was a boundary, it was easily crossed. This residential population had easy access to all the facilities contained in the neighbourhood being able to move freely through the area.

It was noted that there was no disagreement between the Parties about the definition of the neighbourhood.

Adequacy of Existing Provision of Pharmaceutical Services and Necessity or Desirability

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

The Committee noted that within the neighbourhood as defined there were three existing pharmacies namely Boots UK Ltd – 200 Sauchiehall Street, Boots UK Ltd – Charing Cross, and Boots UK Ltd - Buchanan Galleries and that evidence presented during the hearing indicated that this was adequate.

In addition there were 13 further pharmacies situated within one mile of the Applicant's proposed premises. All pharmacies met the needs of the different elements of the neighbourhood including the transient population and the resident population, including the BME population.

The PPC considered that the population within the neighbourhood could access services

both within the neighbourhood and outwith the neighbourhood, including their own local area.

The Committee considered this existing network provided comprehensive service provision to the neighbourhood with extended opening hours and all services required by the pharmacy contract, along with additional services. The Committee considered that access to services was readily achievable in a variety of ways either by foot, public transport or by car. A collection and delivery service was available for any resident finding access to services problematic.

The Committee noted that the Applicant's submission was based largely on the ability to provide a service in a number of languages and one which was culturally sensitive to the needs of the local community. They also considered what was already available within the area but perhaps not, proactively being offered.

They examined the letters and endorsements, Mr Ali had received from various organisations within the community and acknowledged that these did relate to the provision of pharmacy services.

The PPC discussed the comprehensiveness of the back up materials he had produced with his application. The PPC questioned the quality of the research which Mr Ali had commissioned himself as the results depended on the questions which were asked. This was not considered to be evidence that the NHSGG&C Equality Policy had been breached.

In accordance with the statutory procedure the Pharmacist Members of the Committee, Gordon Dykes and James Johnson left the room during the decision process as did Elaine Coull, Observer.

DECIDED

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 was currently adequately served. There was room for improvement in the marketing and communication of the availability of translation services, which was being addressed, but the service was there and was being provided.

The PPC was satisfied that the provision of pharmaceutical services at the premises of the Applicant were neither necessary nor desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises were located by persons whose names were included in the Pharmaceutical List and in the circumstances it was the unanimous decision of the PPC that the application be refused.

The Pharmacist Members of the Committee, Gordon Dykes and James Johnson, rejoined the meeting at this stage.

**Contractor
Services
Supervisor**

5. ANY OTHER COMPETENT BUSINESS

None

6. DATE OF NEXT MEETING

To be arranged.

The meeting ended at 3.30