

8 August 2025

REF: SHA/ 26609

8th Floor
10 South Colonnade
Canary Wharf
London
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**APPEAL AGAINST NORTH WEST LONDON ICB
DECISION TO REFUSE AN APPLICATION BY PHANTOM
MEDICAL LTD FOR INCLUSION IN THE
PHARMACEUTICAL LIST AT 11 WESTWAY, WHITE
CITY, LONDON W12 0PT WITH REGARD TO CURRENT
NEED UNDER REGULATION 13**

1 Outcome

- 1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, quashes the decision of the Commissioner and redetermines the application.
- 1.2 The Committee determined that the application should be refused.

A copy of this decision is being sent to:

Phantom Medical Ltd

PCSE on behalf of North West London ICB

Pharmacy Sales & Consultancy on behalf of Anvi Ltd t/a Marcus Jones Pharmacy

Boots UK Ltd

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1 The Application

By application dated 22 April 2024, Phantom Medical Ltd (“the Applicant”) applied to North West London ICB (“the Commissioner”) for inclusion in the pharmaceutical list at 11 Westway, White City, London W12 0PT with regard to Current Need under Regulation 13. In support of the application it was stated:

In response to “In my view this application should not be refused pursuant to Regulation 31 for the following reasons” the Applicant stated:

- 1.1 “I am writing to present our case for why the NHS application should not be refused pursuant to Regulation 31. We believe our pharmacy's qualifications and strategic positioning make us an invaluable asset to the community and the NHS. Below are detailed reasons supporting our application:
 - 1.1.1 Long-standing Presence: Our pharmacy has been an integral part of the community for over four decades. This extensive history underscores our commitment to providing essential healthcare services to the residents we serve.
 - 1.1.2 Experienced Staff: Our pharmacy team comprises individuals with impressive tenures ranging from 20 to 40 years at Westway Pharmacy. Their deep understanding of the community's needs and their strong relationships with neighbors, [sic] next to the GP surgery, and patients highlight our dedication to personalised care and community engagement. We have attached a patient satisfaction survey results.
 - 1.1.3 Addressing Current Load: Despite being geographically close to alternative pharmacies, our facility is experiencing strain due to excessive demand. We recognise this challenge and are determined to alleviate it by extending our services during weekends and late evenings, bridging the gap in service provision past 6 PM.
 - 1.1.4 Weekend and Late-night Accessibility: We are committed to offering extended operating hours, including weekends until approximately 12 AM, to ensure that individuals have access to essential medications and healthcare services when traditional pharmacies are closed. Additionally, our Pharmacy First services will provide timely assistance for minor ailments, reducing unnecessary visits to GP surgeries and A&E departments.
 - 1.1.5 Endorsement from Neighbouring GP Surgery: The neighbouring GP surgery has provided a reference in support of our application, validating our

collaborative approach to healthcare delivery and our ability to complement existing services seamlessly.

- 1.1.6 Staffing for Patient Prioritisation: To meet the demands of extended hours, we will increase staffing levels during late nights and weekends, ensuring that every patient receives efficient and compassionate care, even during peak hours.
- 1.1.7 Strategic Location: Our pharmacy's location directly on the A40 motorway positions us to serve millions of daily commuters traveling through London and beyond. With national statistics confirming the high volume of daily traffic, our extended hours and Pharmacy First services will cater to the healthcare needs of commuters and local residents alike.
- 1.1.8 Accessibility via Various Modes of Transportation: Our location is easily accessible by walking, car, and public transportation, including bus stations and trains, further enhancing our reach and convenience for individuals seeking healthcare services at all times.
- 1.1.9 Out of the three pharmacies that are within walking proximity – we will be the only one in the area offering services from Hammersmith and Fulham borough of London. These include stop smoking services, blood, cholesterol and glucose levels which are specifically funded by H&F.
- 1.2 In conclusion, we firmly believe that our pharmacy's long-standing presence, experienced staff, extended hours, and strategic location make us an essential healthcare provider in the community. We respectfully request reconsideration of any decision to refuse our application, as we are poised to make a significant positive impact on the healthcare landscape.
- 1.3 Should you require further information or clarification, please do not hesitate to reach out."

In response to "In making this application I/we am/are seeking to meet the current need identified on page of the HWB's pharmaceutical needs assessment", the Applicant left this blank.

In response to "Please insert the identified current need you are offering to meet here", the Applicant stated:

- 1.4 "Pharmacy First Services – to ease the burden off the GP and A&E services.
- 1.5 Currently, none of the other chemists within this area are offering this service
- 1.6 Easy access to health care services at all times."

In response to "In the box below please explain how you intend to meet the identified current need either in whole or in part", the Applicant stated:

- 1.7 "Opening outside working hours – late nights until 12 AM and weekends including Sundays until 12 AM".

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 7 April 2025 states:

- 2.1 “North West London ICB has considered the above application and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.
- 2.2 You have a right of appeal to the Secretary of State against North West London ICB’s decision. Should you choose to appeal then either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:
- 2.3 Primary Care Appeals
NHS Resolution
8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU”.

Extract from decision report

[Any reference to ‘Committee’ in this section is not to be confused with the Pharmacy Appeals Committee of NHS Resolution]

- 2.4 **“CAS reference number** - CAS-330912-H2D4K2
- 2.5 **Name of applicant** - Phantom Medical Ltd
- 2.6 **Fitness to practise** - Approved for inclusion.
- 2.7 **Address/best estimate of proposed premises** - 11 Westway, White City, London W12 0PT
- 2.8 **Identified current need that the applicant is offering to meet, as stated in the HWB’s PNA**
- 2.8.1 Pharmacy First Services – to ease the burden off the GP and A&E services.
- 2.8.2 Currently, none of the other chemists within this area are offering this service
- 2.8.3 Easy access to health care services at all times.
- 2.9 **Status of location** - Non-controlled locality.
- 2.10 **Relevant regulations and guidance**
- 2.10.1 Regulations 13 and 14 – current needs: additional matters and consequences.
- 2.10.2 Regulation 31 – refusal: same or adjacent premises.
- 2.10.3 DH market entry guidance chapter 5.

Interested parties notified of the application – Representation Submitted			
Name	Address	Postcode	Reason appeal rights – given or reason why not given

Boots	Unit 1225, Westfield Shopping Ctr. Ariel Way, White City	W12 7HT	Appeal rights given if granted
Marcus Jones Pharmacy	96 Old Oak Common Lane	W3 7DA	
Middlesex Group of LPCs			No Appeal rights as not a pharmacy

Interested Parties notified of the application – Representations not submitted		
Name	Address	Postcode
Banks Chemist	59 Old Oak Common Lane	W3 7DD
Parkland Pharmacy	Unit 2, Cranston Court	W12 7FG
Crossbells Pharmacy	131 The Vale	W3 7RQ
Jays Pharmacy	175 Uxbridge Road	W12 9RA
Pestle & Mortar	59 South Africa Road	W12 7PA
Bush Pharmacy	334 Uxbridge Road	W12 7LL
Pestle & Mortar	388 Uxbridge Road	W12 7LL
Windwood Chemist	96 Askew Road	W12 9BL
Jallas Pharmacy	311-313 Horn Lane	W3 0BU
Horn Lane Pharmacy	142 Horn Lane	W3 6PG
Babylon Health	57 Uxbridge Road	W12 8NR
Shelly's	10 North Pole Road	W10 6QL
Zahra Pharmacy	72 High Street	W3 6LE
Globe Chemist	8 Kings Parade	W12 9BA
Greenlight Pharmacy	228 Uxbridge Road	W12 7JD
Wellcare Group Limited	155 High Street	W3 6LP
Dillons Pharmacy	17 Church Road	W3 8PU
Alisha Pharmacy	257 Acton Lane	W4 5DG
Lime Grove Pharmacy	66 Goldhawk Road	W12 8HA
Pyramid Pharmacy	1 Crown Street	W3 8SA
Goldhawk Pharmacy	9 Goldhawk Road	W12 8QQ
Jhoots Pharmacy	Richford Gate Health Ctr	W6 7HY
Bramley Pharmacy	132 Bramley Road	W10 6TJ
Superdrug Pharmacy	92-94 Uxbridge Road	W12 8LR
Bedford Park Pharmacy	5 Bedford Park Corner	W4 1LS
Londonwide LMC		
Hammersmith & Fulham HWB		
Hammersmith & Fulham Healthwatch		
Ealing HWB		
Ealing Healthwatch		

Hounslow HWB		
Hounslow Healthwatch		
Community Pharmacy Kensington & Chelsea (LPC)		
Kensington & Chelsea HWB		
Kensington & Chelsea Healthwatch		

2.11 **Additional information**

2.12 The London region PSRC have determined that there is enough information within the papers to decide the application without an oral hearing.

2.13 **Applicant's Comments** [see 1.1 – 1.3 above].

2.14 **Boots Comments**

2.15 A review of NHS.UK shows that there are 13 pharmacies within a mile of the proposed location already offering services to patients in the area. The applicant has not provided any evidence of patients having difficulty accessing the pharmacy contractors in this locality and the applicant has applied to fulfil a current need. No gaps in service and current or future need have been identified within the Hammersmith and Fulham Pharmaceutical Needs Assessment (PNA) and for that reason alone, this application must be refused.

2.16 **Marcus Jones Comments**

2.17 Preliminary matters

2.18 We note that several parts of the application are either incomplete or include incorrect information. ICB may wish to consider whether the application is valid or whether it is required to revert to the applicant (if it has not done so already) to seek clarification on these points.

2.19 There matters are:

2.19.1 The applicant has failed to answer the question in respect of whether or not it will provide appliances.

2.19.2 The applicant has failed to explain why the application should not be refused pursuant to Regulation 31, instead seeking to explain why, in its view, there is a need for the pharmacy at the proposed location.

2.20 In the event the ICB believes the application is valid, we set out below why this application should be refused.

2.21 Regulation 13

2.22 NHSE&I is required to consider this application in accordance with the tests set out in Regulation 13 which states the following [quoted in full]:

- 2.23 Paragraph 2(a) of Schedule 1 states [quoted in full]:
- 2.24 For the sake of clarity, for an application to be approved in accordance with Regulation 13, the PNA **must** include a statement to the effect that there are services which are not currently being provided that need to be provided and the application must offer to provide those services.
- 2.25 It is clear, therefore, that the PNA does not include a statement in respect of any current need. In fact, the PNA explicitly states that there are “no gaps in current and future access to Essential, Advanced, Enhanced and Other NHS pharmaceutical services for the residents of Hammersmith & Fulham, and no needs for improvements or better access were identified”. For this reason, NHS ICB may refuse this application without the need for any additional consideration as the fundamental requirements of Regulation 13 have not been met.
- 2.26 It is very clear, therefore, for the reasons provided above, that the requirements of Regulation 13 are not met by this application, and it should be refused accordingly.
- 2.27 **Middlesex Group LPCs**
- 2.28 The attached 45-day notification was received today, together with other usual paperwork from PCSE. This relates to the precise premises that were previously consolidated as notified by PCSE on 14 April 2023. Clearly, NHS England granted the consolidation with Marcus Jones Pharmacy nearby because it was satisfied that the consolidation would not leave a gap in pharmaceutical services. My understanding is that the protection afforded by the consolidation exists at least until the next PNA is published, which will be October 2025.
- 2.29 My question really is whether PCSE has an obligation to advise applicants of this protection until at least publication of the next PNA, rather than process the application when it will have no chance of success? Or is it a case of 'let the buyer beware'? I will be very grateful to receive your opinion on this application.
- 2.30 **Applicant's response**
- 2.31 Overview and Context
- 2.32 Westway Pharmacy has served as a vital healthcare provider in the community for over 45 years. Its closure has significantly impacted residents and placed unsustainable pressure on nearby pharmacies, as evidenced by:
- 2.33 Westway Surgery's Letter of Support: The neighbouring GP surgery highlights the detrimental effects on patient care and the inability of existing pharmacies to meet community needs.
- 2.34 Patient Petition: A petition signed by numerous residents underscores the demand for the reopening of Westway Pharmacy.
- 2.35 Community Growth: Significant residential developments, such as Western Circus, The Verdean, and Friary Park, have increased the local population, amplifying the need for additional pharmaceutical services.
- 2.36 PNA (Pharmaceutical Needs Assessment): which not only does not represent the community growth and expanding population, but also states no pharmacy is needed of which at the time this was published, Westway Pharmacy being included to be in the

list of pharmacies. This is still available on their website today and has been attached for each of reference.

2.37 **Response to Marcus Jones Pharmacy's Representations**

2.38 **Preliminary Matters**

2.39 **1. Provision of Appliances:**

2.40 Marcus Jones' representatives claim the application fails to address appliance provision. This is incorrect. The application explicitly outlines the comprehensive range of services intended, including specialised services tailored to the needs of the Hammersmith and Fulham borough. For clarity, the specific details of all services, including appliances, are available in the initial application.

2.41 **2. Regulation 31:**

2.42 Marcus Jones' representatives argue the application does not address Regulation 31. However, the application clearly outlines why it should not be refused under Regulation 31. We have provided extensive evidence, including:

2.42.1.1 The inadequacy of current pharmaceutical services.

2.42.1.2 Statements from the local GP practice about unmet demand and patient dissatisfaction.

2.42.1.3 Data illustrating community growth and increased healthcare needs.

2.42.2 **b. Regulation 13**

2.42.3 Marcus Jones' objection under Regulation 13 is flawed for the following reasons:

2.42.4 **PNA Statement Misinterpretation:** While the Pharmaceutical Needs Assessment (PNA) may state no current gaps, this does not account for practical realities such as the documented inability of Marcus Jones Pharmacy to meet demand. The PNA does not negate the need for reevaluating service adequacy in light of evolving circumstances, such as the closure of Westway Pharmacy and local population growth.

2.42.5 **Evidence of Demand:**

2.42.6 Westway Surgery's letter confirms Marcus Jones' inability to handle increased patient volume.

2.42.7 Patients' experiences highlight long waiting times and service inadequacies at Marcus Jones Pharmacy.

2.42.8 The petition demonstrates clear dissatisfaction and an unmet need within the community.

2.42.9 **c. Arguments Supporting Westway Pharmacy's Reinstatement**

2.42.10 **Overwhelmed Services at Marcus Jones Pharmacy:**

2.42.11 Reports from patients and the GP surgery indicate that Marcus Jones Pharmacy is struggling to handle current demand, resulting in serious delays and errors that jeopardize patient safety.

2.42.12 **Unavailability of Specialised Services:**

2.42.13 Unlike Marcus Jones Pharmacy, Westway Pharmacy will provide Hammersmith and Fulham–specific services such as stop smoking programs and chronic disease management, which are currently unavailable locally. Although they claim to be covering services like Pharmacy First, however patients have reported that since the closure of Westway Pharmacy, these services have not been met.

2.42.14 **Extended Operating Hours:**

2.42.15 Westway Pharmacy's proposed late-night and weekend hours will alleviate pressure on GP surgeries and A&E departments, reducing the burden on emergency services.

2.42.16 **Geographical Accessibility:**

2.42.17 Westway Pharmacy's location on the A40 motorway and proximity to new developments ensures accessibility for both local residents and commuters, unlike Marcus Jones Pharmacy's less centrally located premises.

2.43 **3. Addressing Boots and General Objections**

2.43.1 Boots, located within Westfield Shopping Centre, is geographically distant and inaccessible for many elderly and less mobile residents. It does not address the critical gaps in service provision highlighted by Westway Surgery and the patient petition.

2.43.2 **Travel Constraints:** A 40-minute walking distance to Boots is impractical for vulnerable populations.

2.43.3 **Weekend and Holiday Access:** Boots does not address the demand for late night or weekend services, as proposed by Westway Pharmacy.

2.43.4 **Conclusion**

2.43.5 The closure of Westway Pharmacy has had severe repercussions on the community, as evidenced by letters of support, petitions, and patient feedback. Marcus Jones Pharmacy's objections fail to address the practical realities of unmet demand and service deficiencies.

2.43.6 Reinstating Westway Pharmacy will:

2.43.7 Fill critical gaps in pharmaceutical services.

2.43.8 Provide specialised care and extended hours to meet community needs.

2.43.9 Reduce the strain on existing healthcare providers, including Marcus Jones Pharmacy.

2.43.10 We urge NHS England to approve this application to restore essential healthcare services to the community.

2.44 **Regulation 31**

2.45 There is currently no contractor included in the Pharmaceutical List at the proposed premises or adjacent to these premises.

2.46 **Regulation 32**

2.47 There are currently no LPS designations in this area therefore regulation 32 is not engaged.

2.48 **General comments.**

2.49 The relevant PNA is the PNA report 2022-2025. It is noted that the HWBB has not issued any supplementary statement in this HWBB area.

2.50 The PNA does not identify any current needs within the document.

2.51 *13(2)(d) whether it is satisfied that, since the publication of the relevant pharmaceutical needs assessment, there have been changes to the needs for pharmaceutical services in the area of the relevant HWB that are such that refusing the application is essential in order to prevent significant detriment to the provision of pharmaceutical services in its area;*

2.52 There have been no changes to the need in this area of Hammersmith & Fulham HWBB that would make refusing the application essential to prevent significant detriment to the provision of pharmaceutical services in this area.

2.53 **The London region PSRC have determined that it is satisfied that since the publication of the PNA there have been no changes in pharmaceutical needs for the HWBB that are such that refusing the application is essential to prevent significant detriment to the provision of pharmaceutical services.**

2.54 *13(2)(e) whether it is satisfied that-*

2.54.1 granting the application would only meet the current need mentioned in paragraph (1) in part, and

2.54.2 if the application were granted, it would be unlikely, in the reasonably foreseeable future, that the remainder of that need would be met;

2.55 The PNA does not identify any current need within the document, in fact this states that there are no current needs. The applicant in their application has not identified the current need in the PNA that they are applying to fulfil.

2.56 We also note that there was a consolidation of two pharmacies that included this site in 2023, in doing so an assessment was made that if granting the application would create a gap in pharmaceutical services that could be met by a current or future needs, or improvements or better access, application? As the consolidation was granted the assessment made was that granting the consolidation would not create a gap in pharmaceutical services.

- 2.57 In order to grant an application, there must be a current need identified in the PNA. This is the considerations for an application for a current need. Other applications made have other considerations.
- 2.58 The London Region PSRC have determined that it is satisfied that if granted the application would not meet the current need (as there has been none identified) either in part or fully. Therefore, this criterion has not been met.
- 2.59 *13(2)(f) whether-*
- 2.59.1 *It is satisfied that granting the application would only meet the current need mentioned in paragraph (1) in part, but*
- 2.59.2 *it considers that, if the application were granted, it would not be unlikely, in the reasonably foreseeable future, that the remainder of that need would be met;*
- 2.60 The PNA does not identify any current need within the document, in fact this states that there are no current needs. The applicant in their application has not identified the current need in the PNA that they are applying to fulfil.
- 2.61 The London Region PSRC have determined that it is satisfied that if granted the application would not meet the current need (as there has been none identified) either in part or fully. Therefore, this criterion has not been met.
- 2.62 *13(2)(g) whether it is satisfied that-*
- 2.62.1 *the current need mentioned in paragraph (1) was for services other than essential services, and*
- 2.62.2 *granting the application would result in an increase in the availability of essential services in the area of the relevant HWB.*
- 2.63 The PNA does not identify any current need within the document, in fact this states that there are no current needs. The applicant in their application has not identified the current need in the PNA that they are applying to fulfil.
- 2.64 The London Region PSRC have determined that it is satisfied that if granted the application would not meet the current need (as there has been none identified) either in part or fully. Therefore, this criterion has not been met.
- 2.65 *13(2)(h) whether it is satisfied that, since the publication of the HWB's pharmaceutical needs assessment, the current need mentioned in paragraph (1)(b) has been met by another person who is providing, or is due to be met by another person who has undertaken to*
- 2.65.1 *provide, either in the relevant HWB's area or in the area of another HWB-*
- 2.65.2 *pharmaceutical services from listed chemist premises, or*
- 2.65.3 *local pharmaceutical services from LPS premises;*
- 2.66 The PNA does not identify any current need within the document, in fact this states that there are no current needs. The applicant in their application has not identified the current need in the PNA that they are applying to fulfil.

- 2.67 The London Region PSRC have determined that it is satisfied that if granted the application would not meet the current need (as there has been none identified) and that no other parties have undertaken to provide this need either. Therefore, this criterion has not been met.
- 2.68 *13(2)(i) whether the application needs to be deferred or refused by virtue of any provision of Part 5 to 7.*
- 2.69 *The application was not deferred and the best estimate was accepted as an address for the application.*
- 2.70 Consider impact of decision on those with protected characteristics under the Equalities Act 2010 and is this in accordance with NHS England's Public Sector Equality Duty
- 2.71 Consider impact of decision on NHS England's duty on health inequality
- 2.72 None identified
- 2.73 **Decision**
- 2.74 The London Region PSRC have determined there is enough information within the papers to decide the application without an oral hearing.
- 2.75 With regard to 13(2)(d) the London Region PSRC have determined that that since the publication of the PNA there have been no changes in pharmaceutical needs for the HWBB that are such that refusing the application is essential to prevent significant detriment to the provision of pharmaceutical services.
- 2.76 With regard to 13(2)(e) the London Region PSRC have determined that granting the application would not meet the current need (as there has been none identified).
- 2.77 With regard to 13(2)(f) the London Region PSRC have determined that granting the application would not meet the current need (as there has been none identified).
- 2.78 With regard to 13(2)(g) the London Region PSRC have determined that granting the application would not meet the current need (as there has been none identified).
- 2.79 With regard to 13(2)(h) the London Region PSRC have determined that granting the application would not meet the current need (as there has been none identified) and that no other parties have met this need either.
- 2.80 that granting the application would not meet the current need (as there has been none identified).
- 2.81 The London Region PSRC have determined that the applicant as above has NOT fulfilled the criteria as required in regulation 13 and therefore the Pharmaceutical Services Regulations Committee have refused the application.
- 2.82 Determination made by London PCRC on behalf of NHS North West London ICB."

3 **The Appeal**

In an email dated 6 May 2025, the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

- 3.1 “We are writing to formally challenge the refusal decision dated 7th April 2025, regarding our application for inclusion in the pharmaceutical list under Regulation 13 of The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.
- 3.2 This appeal response sets out clear grounds for reconsideration, based on material changes in population health needs, service delivery failures by existing providers, and errors in the assumptions made during the 2023 consolidation.
- 3.3 Attached to this response, we have also submitted the following supporting documentation to strengthen our appeal:
 - 3.3.1 A formal appeal [see 3.5 – 3.31 below].
 - 3.3.2 A formal support letter from Westway Surgery (updated), highlighting the patient growth and operational impact.
 - 3.3.3 A signed petition from local residents expressing the community demand for reinstating Westway Pharmacy.
 - 3.3.4 A collection of Google reviews detailing recurring service failures and patient dissatisfaction with Marcus Jones Pharmacy.
 - 3.3.5 NHS Digital evidence demonstrating a significant increase in the registered patient population at Westway Surgery since the PNA was produced.
 - 3.3.6 Last Inspection from GhPC [sic].
 - 3.3.7 A statement from Phantom Medical Ltd in regards to the handover of the property and the serious breaches.
 - 3.3.8 A formal support letter from Oakwood Dental and Western Avenue Dental Clinic.
- 3.4 These materials reinforce the urgency and legitimacy of our application and should be given full weight in the reconsideration process.”
- 3.5 “We are writing to formally challenge the refusal decision dated 7th April 2025, regarding our application for inclusion in the pharmaceutical list under Regulation 13 of The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.
- 3.6 This appeal response sets out clear grounds for reconsideration, based on material changes in population health needs, service delivery failures by existing providers, and errors in the assumptions made during the 2023 consolidation.
- 3.7 Substantial Change in Need Since PNA Publication (Regulation 13(2)(d))
- 3.8 Regulation 13(2)(d) allows for approval where changes have occurred since the publication of the PNA that render refusal detrimental to service provision. The current Hammersmith & Fulham PNA (2022–2025) is based on data that is no longer reflective of the patient population or service landscape. Specifically:
 - 3.8.1 Westway Surgery’s list size has increased by over 1,250 patients – from 3,800 in Sept 2022 to 5,050 in April 2025 – a 33% increase.

- 3.8.2 This growth stems from major residential developments including Western Circus, The Verdean, and Friary Park.
- 3.9 **These developments post-date the PNA and were not considered in its assessments.**
- 3.10 **Service Failures and Public Risk – Marcus Jones Pharmacy**
- 3.11 Our application was partially contested by Marcus Jones Pharmacy. However, real-world patient experiences present a drastically different picture:
- 3.11.1 Incorrect dosette boxes delivered to elderly patients.
- 3.11.2 Medication delivery failures and delays.
- 3.11.3 Inconsistent opening hours.
- 3.11.4 Pharmacy First referrals being rejected due to lack of capacity.
- 3.12 Numerous Google reviews, patient complaints, and GP testimony substantiate that Marcus Jones Pharmacy is overwhelmed and unable to safely accommodate current demand.
- 3.13 Outdated Assumptions in 2023 Consolidation
- 3.14 In 2023, Westway Pharmacy was consolidated with Marcus Jones Pharmacy on the assumption that there would be no resulting gap in service. This assumption is no longer tenable. The decision was based on static patient numbers and a pre-growth landscape. It did not account for the surge in local population, closure-related access problems, or Marcus Jones' service degradation.
- 3.15 Rebuttal to Boots' and LPC's Objections
- 3.16 Boots (Westfield): Distance does not equate to access. Westfield is not realistically accessible to elderly, disabled, or low-income patients and does not offer borough-specific services or extended hours. It is a 45-minute walk and costly distant parking.
- 3.17 LPC: Regulation 13(2)(d) allows for reconsideration where need has changed. The post-consolidation protection does not preclude applications showing demonstrable public need.
- 3.18 Phantom Medical's Unique Offering Westway Pharmacy will provide:
- 3.18.1 Late-night opening, 7 days a week
- 3.18.2 Full Pharmacy First services
- 3.18.3 Borough-funded programs (e.g., smoking cessation, cholesterol screening)
- 3.18.4 Accessible on-site delivery and mobility services
- 3.18.5 Dedicated weekend staffing
- 3.19 No other nearby pharmacy provides this combination of access, services, and community responsiveness.

- 3.20 Regulation 31 – Same or Adjacent Premises
- 3.21 Phantom Medical Ltd confirms that the proposed premises at 11 Westway are not currently occupied by any contractor, nor are they adjacent to any listed premises included in the pharmaceutical list. Therefore, Regulation 31 does not apply and should not be grounds for refusal.
- 3.22 Appliance Services
- 3.23 For clarity, Phantom Medical Ltd confirms that NHS appliance services will be provided as part of the pharmaceutical offering, in line with regulatory requirements and patient needs.
- 3.24 **Serious Negligence in the Handling of Closure and Handover**
- 3.25 Phantom Medical Ltd has prepared a comprehensive statement detailing the serious breaches of public health and data protection standards discovered upon acquiring the premises at 11 Westway by former occupier Marcus Jones Pharmacy, who brought and closed down Westway Pharmacy for business purposes with apparent disregard for the subsequent health burden this would place on the NHS, community and local patients. Actions have demonstrated a prioritization of financial gain over public welfare. This document outlines the previous operator's actions, including the improper disposal of expired medications and the abandonment of sensitive patient records, which constitute significant violations of NHS protocols, ICO standard guidelines and the Data Protection Act 2018. The full statement is available as well as evidence, in a separate document for further review and has been attached to this appeal.
- 3.26 Outdated PNA Listing – Incorrect Inclusion of Westway Pharmacy
- 3.27 The Hammersmith & Fulham Pharmaceutical Needs Assessment (2022–2025) lists **Westway Pharmacy at 11 Westway, W12 0PT as an active provider**. This is no longer the case. The pharmacy has been closed since before this appeal process began, yet the PNA's conclusions regarding service sufficiency were made under **the false assumption that Westway Pharmacy remained operational**.
- 3.28 This oversight significantly undermines the reliability of the PNA's conclusions and further supports our claim that the document is no longer reflective of the local pharmaceutical landscape. Given this, we urge NHS England to weigh this factual discrepancy heavily in reconsidering the application.
- 3.29 Conclusion
- 3.30 The refusal to approve our application rests on an outdated and incomplete interpretation of the PNA. We have demonstrated:
- 3.30.1 A material change in need since the PNA's publication
- 3.30.2 Documented failings by Marcus Jones Pharmacy and access concerns
- 3.30.3 Community, GP and dentist support for reinstating Westway Pharmacy
- 3.30.4 A clear public benefit through extended, enhanced services
- 3.31 We respectfully urge NHS England to overturn the refusal and approve our application to restore essential pharmaceutical services to the White City community."

Summary of Representations

After reviewing the appeal and the paperwork provided by the Commissioner, NHS Resolution noted that some of the documentation provided by the Applicant with its application, which included images, a letter from the General Pharmaceutical Council and a petition advertisement had not been circulated by the Commissioner. NHS Resolution therefore applied its discretion under Schedule 3, Part 3, paragraph 7 and allowed parties the opportunity to make comments on this information. This is a summary of representations received.

4.1 Pharmacy Sales & Consultancy on behalf of Anvi Ltd t/a Marcus Jones Pharmacy

- 4.1.1 “We act for Avni Ltd (trading as Marcus Jones Pharmacy) and have enclosed a letter of authorisation from our client accordingly.
- 4.1.2 Our client has passed us a copy of your letter dated 3rd June 2025 informing them of the above appeal.
- 4.1.3 On behalf of our client, who provides pharmaceutical services from premises at 96 Old Oak Common Lane, London, W3 7DA, I wish to respond to the appeal and make the following comments in response.
- 4.1.4 Regulation 13
- 4.1.5 NHS England is required to consider this application in accordance with the tests set out in Regulation 13 which states the following: [quoted in full].
- 4.1.6 Paragraph 2(a) of Schedule 1 states: [quoted in full].
- 4.1.7 For the sake of clarity, for an application to be approved in accordance with Regulation 13, the PNA must include a statement to the effect that there are services which are not currently being provided that need to be provided and the application must offer to provide those services.
- 4.1.8 It is clear, in this case, that the PNA does not include a statement in respect of any current need. In fact, the PNA explicitly states that there are “no gaps in current and future access to Essential, Advanced, Enhanced and Other NHS pharmaceutical services for the residents of Hammersmith & Fulham, and no needs for improvements or better access were identified”. For this reason, the ICB was correct to refuse this application without the need for any additional consideration, as the fundamental requirements of Regulation 13 have not been met.
- 4.1.9 With regard to other grounds of appeal that the appellant has raised, we will deal with each of these in turn.
- 4.1.10 Substantial change in needs since PNA publication
- 4.1.11 The appellant has misinterpreted the regulations, as Regulation 13(2)(d) has to be considered where there is a need identified in the PNA. Where there isn't any need identified in the PNA, the application must be refused.
- 4.1.12 The Health and Wellbeing Board have the ability to publish a supplementary PNA statement where there have been substantial changes to a locality. The fact remains that the HWBB and the ICB have not identified any pharmaceutical need to allow this application to be granted.

- 4.1.13 Alleged Service Failures and Public Risk – Marcus Jones Pharmacy
- 4.1.14 The appellant is focussed on the Marcus Jones Pharmacy but has failed to consider that Banks Pharmacy is in fact closer to the proposed location and there are a further 11 pharmacies within a one-mile radius.
- 4.1.15 There is reasonable choice available within a distance that is acceptable by the standards set within the PNA and so no gap has been identified and as such the application must be refused.
- 4.1.16 Furthermore, the GPhC have carried out an inspection of the Marcus Jones premises and found that all standards are met.
- 4.1.17 Outdated Assumptions in 2023 Consolidation
- 4.1.18 The appellant makes reference to a surge in the local population but does not consider the extensive provision of pharmacy services in the locality. The small amount of growth in the context of the wide availability of pharmacies in the locality does not materially change the decision that was made on the consolidation application, nor does it change the fact that HWBB have stated that there are no gaps within any part of the Hammersmith and Fulham HWBB area.
- 4.1.19 Phantom Medical's Unique Offering
- 4.1.20 Whilst the appellants make a proposition in their application there is still no need identified in the PNA for them to meet and the application should be refused.
- 4.1.21 Regulations 31 – Same or Adjacent Premises
- 4.1.22 We have no comments to make on this point at appeal. It was raised in the consultation stage as an answer had not been provided on the application form that was circulated.
- 4.1.23 It is very clear, therefore, for the reasons provided above, that the requirements of Regulation 13 are not met by this application, and it should be refused accordingly.
- 4.1.24 Should NHS Resolution decide to hold an oral hearing I can confirm that either our client or their appointed representative would wish to attend".
- 4.2 Boots UK Limited
 - 4.2.1 "Thank you for your letter dated 3rd June 2025 informing us of the above appeal. Boots UK LTD agree with the ICB and their reasoning for refusing the application.
 - 4.2.2 We agree with the decision to refuse the application, and we stand by our initial comments which we have attached for your information.
 - 4.2.3 The appellant has included a petition and photographs within their appeal. These hold no weight for an application of this type. The refusal is based on the fact that there are no current identified needs within the Pharmaceutical Needs Assessment (PNA) and therefore regulation 13 is not met.

4.2.4 Any issue regarding concerns over the handover of the premises, left medication and the previous supply of medicines, is not a consideration for this application and we believe this should be dealt with via a different forum.

4.2.5 We have no further comments to make, and we would be grateful if you would inform us of the outcome of this appeal in due course. We would attend any hearing that may be held in relation to this appeal”.

Letter to the Commissioner dated 11 December 2024

4.2.6 “Thank you for your letter dated 30th October 2024 and the circulation of the above. Boots UK Limited have the following comments to make with regards to this application.

4.2.7 A review of NHS.UK shows that there are 13 pharmacies within a mile of the proposed location already offering services to patients in the area. The applicant has not provided any evidence of patients having difficulty accessing the pharmacy contractors in this locality and the applicant has applied to fulfil a current need. No gaps in service and current or future need have been identified within the Hammersmith and Fulham Pharmaceutical Needs Assessment (PNA) and for that reason alone, this application must be refused.

4.2.8 We would be most grateful if you could keep us informed of the progress of the application in due course and we would wish to attend an oral hearing if one is deemed necessary”.

4.3 The Commissioner

4.3.1 “Please refer to our decision report in addition to this response.

4.3.2 Each applicant has a choice of what type of application to make, there are various applications to choose, this decision should be made after reference to the PNA and making sure that the application fits in with what the conclusions of the PNA are. The applicant in this instance has chosen to apply as a current needs application.

4.3.3 Once this choice has been made, the regulations then dictate how this application is processed as each type has its own regulations to be followed.

4.3.4 The PNA is a document that is written by the HWBB and as such they are responsible for any supplementary statements and ensuring that this is updated with any changes in circumstances that they deem to be appropriate. If no statements are made, then any decision is made on the relevant PNA. The relevant PNA in this application is the PNA report 2022-2025 for Hammersmith & Fulham HWBB. It is noted that the HWBB had not issued any supplementary statement in this HWBB area at the point of the PSRC decision. There are some considerations to be made about changing circumstances, but in essence for a current needs application the PNA must state that there is a “current need”.

4.3.5 It is also noted that there was a consolidation application that included this site and in considering this application an assessment was made that granting the consolidation application would NOT create a gap that could be met by a current or future needs, improvement or better access application. The pharmacy at this site closed on 7 August 2023, it would have been up to the

HWBB to determine if and when they need to make a supplementary statement with regards to this consolidation.

4.3.6 We note the information provided regarding other providers and it should be noted that this is not relevant in the decision-making process. Any issues highlighted would need to be dealt with separately.

4.3.7 As the PNA does not identify a current need, we believe that this application and appeal should be refused.”

5 Summary of Observations

This is summary of observations received.

5.1 The Applicant

5.1.1 “Please find attached our final observations in response to the representations received regarding our application for inclusion in the pharmaceutical list at 11 Westway, White City, W12 0PT.

5.1.2 Our submission is entirely evidence-based, supported by statistical facts and aligned with relevant legal and regulatory frameworks. We remain available and willing to attend any hearings should they be required to further clarify or discuss our position”.

5.1.3 “Thank you for the opportunity to provide our final observations in response to representations received regarding our application for inclusion in the pharmaceutical list at 11 Westway, White City, W12 0PT.

5.1.4 We respectfully submit the following rebuttal points:

5.1.5 **The PNA Is Factually Outdated**

5.1.6 While we acknowledge the PNA states “no gaps,” this position was based on a landscape that included Westway Pharmacy as an open, operating contractor. The pharmacy was listed in the PNA as active when, in reality, it has since permanently closed (August 2023). No supplementary statement has been issued to correct this.

5.1.7 This creates a structural flaw in the PNA’s assumptions and directly impacts the validity of its “no gap” conclusion. This point has not been acknowledged by any parties and is in fact a very vital point – Westway Pharmacy is currently listed on the PNA when stating that there is no gap – with Westway Pharmacy in fact included on this list.

5.1.8 **Material Change in Local Circumstances Since PNA Publication (Reg. 13(2)(d))**

5.1.9 Significant residential developments have occurred within walking distance of the proposed premises since 2022, including Western Circus, The Verdean, and Friary Park and many others. This growth has increased local demand beyond what was assessed in the PNA.

5.1.10 The closure of Westway Pharmacy and current service strain—highlighted by a petition, community feedback, and GP letters—demonstrate an emergent need not covered by the existing PNA. Westway GP Surgery, located next door

– have explained the expansion of their services due to increase of the community and demand based on actual statistics and figures and not opinion-based.

5.1.11 Equality and Access Concerns

5.1.12 The refusal does not appear to have assessed impact under the Public Sector Equality Duty. Elderly patients, low-income residents, and working individuals face difficulty accessing late, weekend, or borough-specific services. Our proposed model addresses this need and supports NHS goals to reduce A&E and urgent care burdens.

5.1.13 Pharmacy First: Availability vs Practice

5.1.14 While objectors claim Pharmacy First is available locally, both patient experiences and Westway Surgery indicate these services are inconsistently delivered. We will provide structured Pharmacy First delivery with appropriate staffing and training, alleviating pressure on other healthcare services.

5.1.15 Procedural Ambiguity from Prior Consolidation

5.1.16 There appears to have been limited transparency about how the 2023 consolidation decision would affect future applications. The implication that a new application is automatically void due to that earlier decision was not clearly conveyed at the time.

5.1.17 Response to Representations from Other Pharmacies

5.1.18 Marcus Jones Pharmacy (via PSC): Their response overlooks the evidence from Westway Surgery and fails to address the burden currently placed on Marcus Jones (and life-threatening errors) due to service overload. Their reliance on GPhC inspections misses the day-to-day access and service delays raised by patients.

5.1.19 Boots UK Ltd: Their dismissal of the petition and photos as irrelevant is inconsistent with NHS precedent where qualitative patient impact data is accepted under Regulation 13(2)(d).

5.1.20 Commissioning Hub (DMB): While DMB suggests other providers are irrelevant, Regulation 13(2)(d) requires assessing actual capacity, not theoretical availability. Where existing providers cannot deliver timely or complete care, new provision becomes necessary.

5.1.21 We respectfully maintain that our application meets the real-world criteria of Regulation 13(2)(d) due to a material change in circumstances. We have included everything evidence-based and based these on actual legal and ethical law and regulations as well as statistical figures. We urge the Committee to consider both legal compliance and patient need and grant the application.

5.1.22 **We are available to attend any hearing deemed necessary and welcome further engagement.”**

- 6.1 The Pharmacy Appeals Committee (“Committee”) appointed by NHS Resolution had before it the papers considered by the Commissioner, together with a plan of the area showing existing pharmacies and doctors’ surgeries and the location of the proposed pharmacy.
- 6.2 It also had before it the responses to NHS Resolution’s own statutory consultations.
- 6.3 The Committee had before it a copy of the London Borough of Hammersmith and Fulham Pharmaceutical Needs Assessment (“PNA”) dated October 2022, prepared by the Hammersmith & Fulham Health and Wellbeing Board and provided by the Commissioner. The Commissioner advised that there have been no further updates or supplementary statements to the PNA.
- 6.4 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.
- 6.5 The Committee dealt with the appeal by way of consideration of all the issues.
- 6.6 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”).

Regulation 31

- 6.7 The Committee first considered Regulation 31 of the Regulations which states:
- (1) A routine or excepted application, other than a consolidation application, must be refused where paragraph (2) applies.*
- (2) This paragraph applies where -*
- (a) a person on the pharmaceutical list (which may or may not be the applicant) is providing or has undertaken to provide pharmaceutical services (“the existing services”) from -*
- (i) the premises to which the application relates, or*
- (ii) adjacent premises; and*
- (b) NHS England is satisfied that it is reasonable to treat the services that the applicant proposes to provide as part of the same service as the existing services (and so the premises to which the application relates and the existing listed chemist premises should be treated as the same site).*
- 6.8 The Committee noted the Applicant’s response to the question regarding Regulation 31 in the application form, as outlined at 1.1 to 1.3 above. The Committee noted the Applicant does not address the specific question, instead it provides information to support its application. However in its appeal, the Applicant states that “*Phantom Medical Ltd confirms that the proposed premises at 11 Westway are not currently occupied by any contractor, nor are they adjacent to any listed premises included in the pharmaceutical list. Therefore, Regulation 31 does not apply and should not be grounds for refusal*”. The Commissioner in their decision letter stated that “*There is currently no contractor included in the Pharmaceutical List at the proposed premises or adjacent to these premises*”. The Committee noted that this information had not been disputed.

- 6.9 The Committee was therefore not required to refuse the application under the provisions of Regulation 31.

Regulation 13

- 6.10 The application (which was to be determined in accordance with the procedures in Schedule 2) was submitted by the Applicant based on addressing current need for pharmaceutical services.

- 6.11 The Committee considered whether the need on which the Applicant based its application satisfied the elements of Regulation 13(1) which reads as follows:

"(1) If - —

(a) NHS England receives a routine application and is required to determine whether granting it, or granting it in respect of some only of the services specified in it, would meet a current need for pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB; and

(b) the current need has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 2(a) of Schedule 1,

in determining whether it is satisfied as mentioned in section 129(2A) of the 2006 Act (regulations as to pharmaceutical services), NHS England must have regard to the matters set out in paragraph (2). "

- 6.12 Paragraph 2(a) of Schedule 1 reads as follows:

"A statement of the pharmaceutical services that the HWB has identified (if it has) as services that are not provided in the area of the HWB but which the HWB is satisfied—

(a) need to be provided (whether or not they are located in the area of the HWB) in order to meet a current need for pharmaceutical services, or pharmaceutical services of a specified type, in its area"

- 6.13 The Committee noted that the Applicant had provided a letter of support from Westway Surgery with its application and an updated letter with its appeal along with a letter of support from Oakwood Dental Practice. The Committee also had regard to the petition titled "Sign our petition and help us get our NHS License back!" which had been signed by numerous patients.

- 6.14 The Committee noted that the Applicant is proposing to meet a current need in White City, London.

- 6.15 In making its application, the Applicant had not highlighted any pages in the PNA where the current need that they are proposing to meet is identified.

- 6.16 The Committee noted that the Commissioner had concluded that *"The PNA does not identify any current needs within the document"*.

- 6.17 The Committee had regard to chapter 8 of the PNA, 'Conclusions', which states:

6.17.1 *"...The results of the PNA conclude that there are no current gaps in the provision of essential services outside [sic] normal working hours in lifetime of*

this PNA [under the heading “current access to essential services during normal working hours”]...

- 6.17.2 *...The results of the PNA conclude that there are no current gaps in the provision of essential services outside normal working hours in lifetime of this PNA...*
- 6.17.3 *...The results of the PNA conclude that there are no current gaps in the provision of advanced services for the lifetime of this PNA...*
- 6.17.4 *...The results of the PNA conclude that there are no gaps in the provision of enhanced pharmacy services for the lifetime of this PNA...*
- 6.17.5 *...The results of the PNA conclude that there are no current gaps in the provision of locally commissioned (other NHS) pharmacy services in the lifetime of this PNA...*
- 6.17.6 *...The results of the PNA conclude are no unmet pharmaceutical needs in essential services, that if provided, either now or in the future, would secure improvements or better access to essential services, in the lifetime of this PNA...*
- 6.17.7 *...The results of the PNA conclude that there is no additional need in the provision of advanced services at present or in the future, that would secure improvements or better access to advanced services in the lifetime of this PNA...*
- 6.17.8 *...The results of the PNA conclude that there are no gaps, either now or in the future, that if provided would secure improvements or better access to Enhanced Pharmacy Services in the area...*
- 6.17.9 *...The results of the PNA conclude that there is no additional need, either now or in the future, that if provided would secure improvements or better access to other locally commissioned services in the area in the lifetime of this PNA...”*
- 6.18 The Committee noted that the Applicant has provided information regarding access to the proposed application site as well as its opening hours and highlights the Pharmacy First service it offers to provide. It also highlights that the PNA is out of date, that there have been substantial changes since the publication of the PNA, and service failures at one of the existing pharmacies. However, the Committee was mindful that these are not relevant considerations for an application made in accordance with Regulation 13. The Committee noted that it is open to the Applicant to submit an application under an alternative Regulation.
- 6.19 The Committee noted the Applicant’s comments in its application under the headings “Long-standing Presence”, “Experienced Staff” and “Endorsement from Neighbouring GP Surgery” as well as the results from the patient satisfaction survey 2019-2020. Whilst the Committee appreciated the Applicant’s intentions, it was of the view that these are not relevant to the consideration of this appeal.
- 6.20 The Committee was of the view that any purported “need” identified by the Applicant in its application, appeal and observations does not constitute a “current need” as that term is used in the Regulations and which is specifically set out in paragraph 2(a) of Schedule 1.

- 6.21 The Committee determined that the need in question was not included in the PNA dated 2022 in accordance with paragraph 2(a) of Schedule 1.
- 6.22 In this case, the provisions of Regulation 13(1) were not met.
- 6.23 The Committee noted the Applicant's comments in relation to Regulation 13(2)(d). The Committee noted that the provisions of Regulation 13(2) need only to be considered where Regulation 13(1) is satisfied. As the Applicant had not satisfied the provisions of Regulation 13(1), the Committee did not need to have regard to the provisions of Regulation 13(2) nor Regulation 21A.
- 6.24 The Committee noted the concerns raised by the Applicant in relation to the former owner of the proposed application site. However, the Committee was of the view that it is not relevant to the consideration of this appeal.
- 6.25 The Committee noted the Applicant's comment in its observations that *"The refusal does not appear to have assessed impact under the Public Sector Equality Duty"*. However, for the reasons outlined above, the Applicant had not identified a current need in accordance with Regulation 13(1).
- 6.26 The Committee noted the comments on the application from Middlesex Pharmaceutical Group on behalf of Hammersmith, Ealing and Hounslow LPC regarding the consolidation application in 2023 as well as the Commissioner's comments in the decision report. The Committee noted that the Applicant states that *"There appears to have been limited transparency about how the 2023 consolidation decision would affect future applications. The implication that a new application is automatically void due to that earlier decision was not clearly conveyed at the time"*.
- 6.27 The Committee had regard to the fact that consolidation applications are considered under Regulation 26A. Regulation 26A(5)(a) states that:
- "NHS England must refuse a consolidation application—*
- (a) if it is satisfied that granting the application would create a gap in pharmaceutical services provision that could be met by a routine application—*
- (i) to meet a current or future need for pharmaceutical services, or*
- ..."*
- 6.28 The Committee noted that this provision requires the Commissioner to refuse a consolidation application if it is satisfied that granting the application would create a gap in pharmaceutical services provision that could be met by a routine application to meet a current or future need for pharmaceutical services. In the 2023 application, the Commissioner concluded that there would not be a gap. Whilst the consolidation is not relevant to the consideration of the Applicant's Regulation 13 application and therefore the Committee did not need to have regard to it, the Committee felt that it was important for the Applicant to understand the framework regarding consolidation applications.
- 6.29 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 6.29.1 confirm the Commissioner's decision;
- 6.29.2 quash the Commissioner's decision and redetermine the application;

- 6.29.3 quash the Commissioner's decision and, if it considers that there should be a further notification to the parties to make representations, remit the matter to the Commissioner.
- 6.30 Although the Committee had reached the same conclusion as the Commissioner, it noted that the Commissioner considered the tests in 13(2) without specific mention of 13(1). Given the lack of clarity in this respect, the Committee determined that the decision of the Commissioner must be quashed.
- 6.31 The Committee went on to consider whether there should be a further notification to the parties detailed at paragraph 19 of Schedule 2 of the Regulations to allow them to make representations if they so wished (in which case it would be appropriate to remit the matter to the Commissioner) or whether it was preferable for the Committee to redetermine the application.
- 6.32 The Committee noted that representations on Regulation 13 had already been made by parties to the Commissioner, and these had been circulated and seen by all parties as part of the processing of the application by the Commissioner. The Committee further noted that when the appeal was circulated representations had been sought from parties on Regulation 13.
- 6.33 The Committee concluded that further notification under paragraph 19 of Schedule 2 would not be helpful in this case.

7 Decision

- 7.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, quashes the decision of the Commissioner, for the reasons given above, and redetermines the application.
- 7.2 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.
- 7.3 The Committee has determined that the application should be refused for the following reason:
- 7.3.1 The PNA has not identified a current need which this application could meet.

Case Manager
Primary Care Appeals