NHS Resolution

31 July 2026

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REF: SHA/26965

APPEAL AGAINST WEST YORKSHIRE ICB DECISION TO REFUSE AN APPLICATION BY QUILLIAM CARE LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST AT 11 ROWAN TRADE PARK, NEVILLE ROAD, BRADFORD, BD4 8TQ 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:

Pharmaceutical Defence on behalf of Quilliam Care Ltd
PCSE, on behalf of West Yorkshire ICB

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1 The Application

By application dated 25 October 2025, Quilliam Care Ltd ("the Applicant") applied to West Yorkshire ICB ("the Commissioner") for inclusion in the pharmaceutical list at 11 Rowan Trade Park, Neville Road, Bradford, BD4 8TQ with regard to Current Need under Regulation 13. In support of the application it was stated:

1.1 In response to Section 5 "Applications in relation to premises that are in close proximity to other listed chemist premises", the Applicant stated:

1.2 "In my/our view this application should not be refused pursuant to Regulation 31 for the following reasons:

1.3 Although the proposed premises are adjacent to existing pharmacy premises, the DAC will operate entirely independently in accordance with Regulation 31. The premises will have a separate entrance, signage, and operational space, ensuring a clear physical and functional separation between the DAC and any neighbouring contractor. The business will not share staff, stock, records, or systems with the pharmacy, and all professional and commercial activities will be conducted independently. The purpose of the DAC is solely to provide appliance services under NHS prescription, which are distinct from the dispensing of medicines. Therefore, the application should not be refused under Regulation 31."

1.4 In response to Section 6 "Information in support of the application", the Applicant stated:

1.5 "In making this application I/we am/are seeking to meet the current need identified on page 42, Section 3.5.3 – Dispensing Appliance Contractors (DACs), Bradford District Pharmaceutical Needs Assessment 2022–2025. This section highlights that there is currently only one DAC operating in the Bradford District, resulting in limited availability of appliance dispensing services, particularly for patients requiring stoma, continence, and wound-care appliances. The PNA notes that due to this low provision, many patients rely on non-local or remote suppliers, which may compromise continuity of care and

responsiveness to local needs. of the HWB's pharmaceutical needs assessment.

1.6 Please insert the identified current need you are offering to meet here. The Bradford Health and Wellbeing Board's PNA identifies a clear gap in the provision of appliance dispensing services across the district, with only one DAC currently registered. This restricted provision limits accessibility, choice, and support for patients who depend on regular appliance supplies, such as those living with long-term stoma, urology, or continence conditions.

1.7 The PNA also indicates that many community pharmacies in Bradford do not provide stoma customisation or appliance use review (AUR) services, meaning patients who require these services must look outside their immediate locality. This creates disparities in access to essential care, particularly affecting housebound, elderly, and care home residents — groups who already experience higher levels of dependency and chronic conditions.

1.8 Additionally, the ongoing pressures on primary care and hospital discharge pathways reinforce the need for a reliable, patient-centred appliance contractor able to coordinate directly with prescribers, care homes, and domiciliary services to ensure continuity of care.

1.9 In the box below please explain how you intend to meet the identified current need either in whole or in part.

1.10 Quilliam Care Ltd proposes to establish a Dispensing Appliance Contractor (DAC) service designed to address the shortfall identified in the Bradford PNA by providing comprehensive, locally managed access to prescribed appliances for patients across the district.

1.11 Our DAC service will:

1.11.1 Supply the full range of NHS appliances, including stoma, continence, wound-care, tracheostomy, and urology products.

1.11.2 Offer Appliance Use Reviews (AURs) to ensure appropriate product selection, patient confidence, and improved outcomes.

1.11.3 Provide stoma customisation where clinically appropriate, enhancing fit and comfort for individual patients.

1.11.4 Deliver a free, discreet, and fully traceable home delivery service, ensuring equitable access for patients who are housebound, living in care homes, or receiving domiciliary care.

1.11.5 Operate a clinical support helpline staffed by trained pharmacy professionals to answer appliance-related queries and improve patient adherence.

1.11.6 Integrate with care home and GP systems to improve communication and reduce prescription errors or delays.

1.12 By establishing this service, Quilliam Care will not only enhance local DAC capacity but also contribute to reducing health inequalities and improving patient experience — key priorities identified by the Bradford Health and Wellbeing Board. Our Bradford-based operations will ensure continuity, accountability, and efficiency, while aligning fully with NHS standards for appliance contractors.

1.13 This initiative will complement existing community pharmacy services rather than duplicate them, focusing on appliance supply and support where provision is currently limited. In doing so, Quilliam Care Ltd will help ensure that every patient in Bradford has timely, safe, and convenient access to the appliance products and advice they need."

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 6 March 2026 states:

2.1 "West Yorkshire 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 West Yorkshire 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

2.4 "PSRC considered the application, by Quilliam Care Ltd, for Inclusion in the Pharmaceutical List Under Regulation 13 of The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

2.5 The committee considered the application and representations submitted in relation to an application for inclusion in a pharmaceutical list: routine application offering to meet an identified current need as a Dispensing Appliance Contractor (DAC).

2.6 The committee noted that within the application, Quilliam Care Ltd initially referenced the 2022-2025 PNA.

2.7 The Committee noted that a new PNA was published on 1st October 2025 and had noted that Quilliam Care Limited's application was dated 25th October 2025 and received by West Yorkshire ICB on 27th October 2025, and therefore the ICB had responded to the applicant, via PCSE on 28th October 2025, with the following statement:

2.8 *"The ICB has noted that Bradford HWB published a new PNA on 1st October 2025. Although Quilliam Care Ltd has referred to the 2022 version of Bradford HWB's PNA in its application, the ICB is required to have regard to the PNA that is current at the time it makes its decision, unless in its opinion the only way to determine the matter justly is with regard to an earlier PNA. You may therefore wish to make comments on this matter in your representations."*

2.9 The Committee noted the applicant's response to that enquiry which confirmed that the applicant refers to the 2025-2028 version.

2.10 The committee noted the proposed services and hours outlined within the application noting that these totalled more than 30h per week, and that clarity had been sought on those hours as core, additional core and supplementary.

2.11 Core hours Mon-Fri 09:00-15:00 (30h)

2.12 Additional Core hours Mon-Fri 15:00-17:30 (12.5h)

2.13 Supp hrs Mon- Fri 17:30-18:00 and Sat 09:00-13:00 (6.5h) = 49 total opening hours

2.14 The committee noted that there is one other Dispensing Appliance Contractor in Bradford which is listed as FMV48 Fittleworth Medical Ltd at Unit 2 Old Souls Mill, Micklethwaite Lane, Bingley, BD16 2AN. There was also a discussion in general about DACs and how some of these (including Fittleworth Medical Ltd) are national providers, delivering by post or courier. It was also discussed that there is no current need for a DAC identified within the Bradford PNA -00-bradford-pna-2025-2028.pdf

2.15 The committed were satisfied that there are no other current DAC applications noted within West Yorkshire.

2.16 It was agreed that Regulation 31 does not apply as Quilliam Care Ltd is applying to be included in the pharmaceutical List of DACs for the area of Bradford HWB, whereas Quilliam Care Ltd is included in the pharmaceutical list of pharmacy contractors. These are two separate lists. The fact that there is a person included in the pharmacy contractor's list at these premises is not relevant.

2.17 Regulation 32 is not applicable as there are no LPS designations.

2.18 Regulation 40 & 41 are not applicable as this application is not within a controlled locality, therefore not reserved.

2.19 Regulations 44 and 50 are not applicable.

2.20 Regulation 65 – core opening hours conditions does apply. The committee were aware that the applicant offered to provide more than 30 core hours (DAC). Therefore, considered that should this application be granted then consideration to these hours would require a direction to be issued.

2.21 Regulation 66 is not applicable.

2.22 Regulation 13 - Current needs: additional matters to which the NHSCB must have regard

2.23 "13(1) If the NHSCB 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—

(a) for pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB; and

(b) that 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 (1) (regulations as to pharmaceutical services), the NHSCB must have regard to the matters set out in paragraph (2)."

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

2.25 "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;"

2.26 The 2025-2028 Bradford PNA was published 1st October 2025 and can be found here: 00-bradford-pna-2025-2028.pdf

2.27 The committee agreed that the Bradford PNA reports that there are no current gaps.

2.28 The committee noted the representations received from Boots Pharmacy, Community Pharmacy West Yorkshire (CPWY) and YOR LMC.

2.29 Boots commented that neither PNA identifies any gaps, including in respect of a DAC and therefore this must be refused. They also make comment in relation to Regulation 31 as the proposed site is adjacent to an existing DSP contract.

2.30 CPWY made no substantive comment only to reserve the right to make comment.

2.31 YOR LMC made no substantive comment only to reserve the right to make comment.

2.32 All regulations were considered as detailed in the report to PSRC. It was recommended that the application be refused as the relevant Bradford PNA 2025-2028 has not identified a current need which the application could meet, as required by regulation 13.

2.33 **PSRC Decision:** Having considered all the information provided by the applicant, alongside representations, the Committee agreed that the

application did not meet the relevant Regulations. The PSRC refused this application.

2.34 **Right of Appeal:** Applicant."

3 The Appeal

In a letter dated 28 March 2026, the Applicant's representative, Pharmaceutical Defence, appealed against the Commissioner's decision. The grounds of appeal are:

3.1 "Please provide below a concise and reasoned statement of your grounds of appeal.

3.2 Please include an explanation of any supporting information that you are submitting to support your appeal.

3.3 The decision letter and attached decision report did not contain enough information so that the applicant could be satisfied that the application had been fully considered.

3.4 It is submitted that the decision letter and decision report provided by West Yorkshire ICB

3.4.1 The committee in the decision report appears to have:

3.4.1.1 a. Misinterpreted the Bradford PNA in relation to Section 3.2.3 AND / OR

3.4.1.2 b. Not turned their attention to consider that there is only one DAC in the area and therefore this points to the committee's lack of assessment of service resilience AND / OR

3.4.1.3 c. Failed to take into account that another DAC within the area would enhance accessibility and local integration with other care service providers AND / OR

3.4.1.4 d. Failed to take into account that there is expected to be approximately 27500 new homes built in the area and with this will be a proportionate increase in the population which will require pharmaceutical services including appliances AND / OR

3.4.1.5 e. Failed to take into account that the PNA, in Section 8 of that document, is biased in that it confines the conclusions to mentioning the provision of enhanced and advanced services through the face to face pharmacy network and does NOT mention the provision of services supplied from a dispensing appliance contractor AND / OR

3.4.1.6 f. Failed to take into account that Section 8.2.4 is fundamentally flawed in that there are to be over 27500 new homes built with a projected population increase of 4100. This is an illogical

conclusion within the report and has not been questioned by the committee AND / OR

3.4.1.7 g. Failed to explain how the committee applied the law to the application that they were tasked with deciding on AND / OR

3.4.1.8 h. Misapplied themselves as to the correct interpretation of the test in Regulation 13 AND / OR

3.4.1.9 i. Contained a predetermined decision which was to refuse the application AND / OR

3.4.1.10 j. Gave little or no information regarding the committees decision in relation to why the application did not meet Regulation 13 AND / OR

3.5 No person, be that the applicant or a member of the public, could be satisfied that the committee reached the correct decision based on the inadequate information provided in the refusal decision and letter.

3.6 The decision is therefore:

3.6.1 Unsafe as no person, be that the applicant or a member of the public, could be satisfied that the committee reached the correct decision based on the inadequate provided in the refusal decision and letter

3.7 The applicant requests that the committee hear the appeal and consider the application afresh.

3.8 The committee hearing the appeal will note that all paperwork previously submitted for the original application under the reference number CAS-392038-S6K9K6 must be made available for the committee when hearing the appeal including the refusal decision letter and the report of the committee regarding their decision. To save duplication of paperwork, this has not been included with this appeal paperwork."

4 Summary of Representations

This is a summary of representations received on the appeal.

4.1 Boots

4.1.1 "Thank you for your letter dated 9th April 2026 informing us of the above appeal.

4.1.2 Boots UK Ltd agree with the decision of the West Yorkshire ICB to refuse the application.

4.1.3 The applicant applied to fulfil a current need as identified in the West Yorkshire Needs Assessment. After discussion, it would appear that the deciding committee and the applicant agreed to consider the application under the 2025-2028 PNA. The PNA, and the previous one, does not

identify any current need that an additional DAC contractor in the locality could fulfil. We also agree that the existing DAC supplies appliances to patients in the area and also nationally to patients via a postal system. That aside, no current gap has been highlighted within the assessment, so the application was correctly refused and this subsequent appeal, must be dismissed.

4.1.4 We have no further comments to make but respectfully ask that NHS Resolution inform us of the decision in due course."

4.2 The Commissioner

4.2.1 "Thank you for the opportunity to make representations by the deadline of 09 May 2026 and thank you for sharing representations by the appellant.

4.2.2 All documentation relating to the original application has been provided to NHS Resolution. WYICB will continue to engage fully with the appeal process and will comply with the determination reached.

4.2.3 WYICB's response is set out in the pages below.

4.2.4 "**Case provided by the appellant:**

4.2.5 The committee in the decision report appears to have:

4.2.6 a. Misinterpreted the Bradford PNA in relation to Section 3.2.3 AND / OR

4.2.7 Extract from the Bradford PNA 3.2.3

4.2.8 *'Dispensing appliance contractors Dispensing Appliance Contractors (DACs) are a specific subset of NHS pharmaceutical contractors who supply on prescription, appliances such as stoma and incontinence aids, dressings, and bandages (see Appendix 8 for full terms of service for DACs). They cannot supply medicines. There is one Dispensing Appliance Contractor in the District. Many patients use DACs for a variety of pharmaceutical services, meaning need for these services in pharmacies, including Stoma Appliance Customisation and Appliance Utilisation Review services, is lower and so not provided.'*

4.2.9 Link to Bradford 2025_28 PNA: **jsna.bradford.gov.uk/media/vgtmpesx/00-bradford-pna-2025-**2028.pdf

4.2.10 Section 3.2.3 of the Bradford PNA was accurately referenced within the papers provided to the PSRC, the committee minutes, and the subsequent decision report. In considering the application, the committee applied this section as written and reached a shared understanding of the scope and delivery model of Dispensing Appliance Contractors (DACs). The appellant has not identified, or evidenced, any specific respect in which this section was misinterpreted.

4.2.11 b. Not turned their attention to consider that there is only one DAC in the area and therefore this points to the committee's lack of assessment of service resilience AND / OR

4.2.12 The PSRC was aware that there is currently one DAC within Bradford & Airedale and considered this within the context of how DAC services are commissioned and delivered nationally. In reaching its decision, the committee explicitly considered service resilience through reference to national DAC provision, postal and courier delivery models, and the absence of geographical restriction on patient access.

4.2.13 Link to national DAC providers: **Dispensing appliance contractors - NHS**

4.2.14 c. Failed to take into account that another DAC within the area would enhance accessibility and local integration with other care service providers AND / OR

4.2.15 The committee considered whether an additional DAC would enhance accessibility and concluded that, while patient choice may increase, accessibility would not be materially improved. Evidence before the committee demonstrated that DAC services are predominantly delivered remotely, with consultations undertaken by telephone or via home or GP-practice visits, and appliances supplied directly to patients. The operating model of DACs therefore limits the extent of local, face-to-face integration with other care providers.

4.2.16 d. Failed to take into account that there is expected to be approximately 27500 new homes built in the area and with this will be a proportionate increase in the population which will require pharmaceutical services including appliances AND / OR

4.2.17 The application was assessed against the statutory test for an identified current need. The Bradford PNA did not identify any unmet current need for DAC services. While the PNA references planned housing development up to 2030, the committee considered that these developments are not yet realised, that no supplementary PNA statements have been issued, and that the appellant provided no evidence regarding the timing or certainty of population growth sufficient to support a current need.

4.2.18 e. Failed to take into account that the PNA, in Section 8 of that document, is biased in that it confines the conclusions to mentioning the provision of enhanced and advanced services through the face to face pharmacy network and does NOT mention the provision of services supplied from a dispensing appliance contractor AND / OR

4.2.19 The committee considered the PNA as a whole. Remote provision of pharmaceutical services is explicitly addressed within the document (section 3), and the conclusions in Section 8 relate to overall service

sufficiency rather than promoting or excluding any particular contractor type, including DACs.

4.2.20 f. Failed to take into account that Section 8.2.4 is fundamentally flawed in that there are to be over 27500 new homes built with a projected population increase of 4100. This is an illogical conclusion within the report and has not been questioned by the committee AND / OR

4.2.21 Section 8.2.4 of the Bradford PNA is as follows:

4.2.22 *'8.2.4 Future provision of necessary services The Health and Wellbeing Board has taken into account the forecasted population growth and potential housing developments. It has not identified any necessary services that are not currently provided but that will, in specified future circumstances, need to be provided in order to meet the anticipated increase need for pharmaceutical services due to the forecasted population growth and housing developments.*

4.2.23 ***Based on the information available at the time of developing this pharmaceutical needs assessment no gaps in the need for the necessary services in specified future circumstances have been identified in any of the localities across Bradford District.'***

4.2.24 Section 8.2.4 reflects the conclusions reached by the Health and Wellbeing Board based on the evidence available at the time the PNA was developed. The committee was entitled to rely on the adopted PNA when determining the application, as no formal revisions or supplementary statements had been issued. The PNA was not authored by the commissioner, and representations concerning its content should be directed to the contact details within the document.

4.2.25 g. Failed to explain how the committee applied the law to the application that they were tasked with deciding on AND / OR

4.2.26 This assertion is not supported by any specific example or evidence. The decision report sets out the relevant legal framework, including Regulation 13, and explains how the committee applied that framework to the facts of the application before reaching its decision.

4.2.27 h. Misapplied themselves as to the correct interpretation of the test in Regulation 13 AND / OR

4.2.28 The committee expressly considered the application against the statutory test set out in Regulation 13 and concluded that the criteria were not met. The appellant has not explained, nor evidenced, how the committee's interpretation or application of the test was incorrect.

4.2.29 i. Contained a predetermined decision which was to refuse the application AND / OR

4.2.30 There is no evidence to support an allegation of predetermination. Recommendations to the committee are advisory, and the PSRC has a

documented history of reaching decisions that differ from officer recommendations, demonstrating an open and impartial decision-making process.

4.2.31 j. Gave little or no information regarding the committee's decision in relation to why the application did not meet Regulation 13 AND / OR

4.2.32 The Committee clearly identified that the relevant Pharmaceutical Needs Assessment (Bradford PNA 2025-2028) did not identify a current need for dispensing appliance contractor services. Regulation 13 requires that a routine application must meet a current need identified in the PNA. As no such need was identified, the application did not satisfy Regulation 13(1), and the Committee was entitled to refuse the application on that basis without further consideration of Regulation 13(2). Where (and only where) such a current need exists, the decision maker must have regard to specified additional matters (Regulation 13(2)(d)–(h)). The Committee's reasoning is clearly set out in the Decision Report and is sufficient.

4.2.33 No person, be that the applicant or a member of the public, could be satisfied that the committee reached the correct decision based on the inadequate information provided in the refusal decision and letter.

4.2.34 The decision is therefore:

4.2.35 1. Unsafe as no person, be that the applicant or a member of the public, could be satisfied that the committee reached the correct decision based on the inadequate provided in the refusal decision and letter

4.2.36 The appellant has provided no evidence to substantiate the claim that the decision was unsafe or inadequately reasoned. The information contained within the decision report enables a reasonable reader to understand the basis upon which the committee reached its decision.

4.2.37 The applicant requests that the committee hear the appeal and consider the application afresh. The committee hearing the appeal will note that all paperwork previously submitted for the original application under the reference number CAS-392038-S6K9K6 must be made available for the committee when hearing the appeal including the refusal decision letter and the report of the committee regarding their decision. To save duplication of paperwork, this has not been included with this appeal paperwork.

4.2.38 All documentation relating to the original application has been provided to NHS Resolution. The commissioner will continue to engage fully with the appeal process and will comply with the determination reached."

5 Summary of Observations

No observations were received by NHS Resolution in response to the representations received on appeal.

6 **Consideration**

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 2025-2028 Bradford Pharmaceutical Needs Assessment ("PNA") dated 1 October 2025 and prepared by Bradford District Health and Wellbeing Board ("HWB"), which had been provided by the Commissioner. The Commissioner advised that there have been no further updates or supplementary statements to the PNA. The Committee noted that both the Applicant and Commissioner had confirmed that the relevant PNA is the 2025-2028 version and the Commissioner had determined the application against this version.

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") at or 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 Applicants comments that:

6.8.1 "*Although the proposed premises are adjacent to existing pharmacy premises, the DAC will operate entirely independently in accordance with Regulation 31. The premises will have a separate entrance, signage, and operational space, ensuring a clear physical and functional separation between the DAC and any neighbouring contractor. The business will not share staff, stock, records, or systems with the pharmacy, and all professional and commercial activities will be conducted independently. The purpose of the DAC is solely to provide appliance services under NHS prescription, which are distinct from the dispensing of medicines. Therefore, the application should not be refused under Regulation 31*."

6.9 The Committee had regard to the Commissioner's report which states that "*Regulation 31 does not apply as Quilliam Care Ltd is applying to be included in the pharmaceutical List of DACs for the area of Bradford HWB, whereas Quilliam Care Ltd is included in the pharmaceutical list of pharmacy contractors. These are two separate lists. The fact that there is a person included in the pharmacy contractor's list at these premises is not relevant*."

6.10 Whilst the Committee noted that the Commissioner had appeared to make a distinction between a "pharmaceutical list of DACs" and a "pharmaceutical list", it was mindful of the wording of the application form which states:

> "*This section should only be completed if the premises included in section 2 above are adjacent to, or in close proximity to, another pharmacy or dispensing appliance contractor premises"*.

6.11 Further, the Committee noted that Regulation 31 does not make any distinction between a "DAC pharmaceutical list and a "pharmaceutical list" instead simply referring to "the pharmaceutical list". The Committee also noted that the language "*the* pharmaceutical list", "*a* pharmaceutical list" and "the pharmaceutical list*s*" is used throughout the Regulations when referring to pharmaceutical lists. The Committee was mindful that it had not received representations from any party with regard to this issue, and how it should interpret the use of the word "the" in this context.

6.12 Therefore, based on the information provided, the Committee was of the view that the proposed premises were adjacent to, or in close proximity to, another pharmacy. It did not have regard to the question of which list the pharmacy was on, due to the aforementioned lack of representations in relation to the issue.

6.13 The Committee was of the view that, as there is already a person providing pharmaceutical services, the conditions as set out in Regulation 31(2)(a) may have been met.

6.14 The Committee hence considered whether Regulation 31(2)(b) applied.

6.15 The Committee noted that the adjacent pharmacy is owned and operated by the Applicant, which has not been disputed by any party. Given that there is a commonality between the two pharmacies, the Committee went on to consider if it would be reasonable to treat the proposed services as part of the same

service as the existing services in accordance with the wording of Regulation 31(2)(b).

6.16 The Committee noted that the application before it was for a dispensing appliance contract and the Applicant was seeking to provide “pharmaceutical services” as set out in the Terms of Service (paragraphs 3 to 12, Schedule 5 – DACs).

6.17 The Committee noted that the existing pharmacy is included on the pharmaceutical list to provide Essential services (paragraphs 3 to 22, Schedule 4 – pharmacies) and that there is no dispute over this.

6.18 The Committee, noting the distinction on the application form between the two types of pharmaceutical services, was of the view that “Essential Services (paragraphs 3 to 22, Schedule 4)” are not the same as “Terms of service (paragraphs 3 to 12, Scheule 5)”.

6.19 The Committee was of the view that as the Applicant was not proposing to provide “Essential Services” (as set out in paragraphs 3 to 22 of Schedule 4 – pharmacies) it is not reasonable to treat the services that the Applicant is proposing to provide (Terms of service (paragraphs 3 to 12, Scheule 5)) as part of the same services as the existing services. On this basis, the Committee was of the view that the premises to which the application relates and the existing listed chemist premises should not be treated as the same.

6.20 The Committee therefore concluded, based on the information before it, that it was not required to refuse the application under the provisions of Regulation 31. As the Committee was not satisfied with regard to Regulation 31(2)(b) it did not consider it necessary to make any determination on the interpretation of the phrase "the pharmaceutical list" in relation to the wording of Regulation 31(2)(a), or consider it further than it already had in relation to the application.

6.21 The Committee noted that, if the application were granted, the successful applicant would - in due course - have to notify the Commissioner of the precise location of its premises (in accordance with paragraph 31 of Schedule 2). Such a notification would be invalid (and the applicant would not be able to commence provision of services) if the location then provided would (had it been known now) have led to the application being refused under Regulation 31.

Regulation 13

6.22 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.

6.23 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). "

6.24 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"

6.25 The Committee noted that the Applicant is proposing to meet a purported current need in Bradford.

6.26 The Committee noted the Applicant's submission that "*Quilliam Care Ltd proposes to establish a Dispensing Appliance Contractor (DAC) service designed to address the shortfall identified in the Bradford PNA by providing comprehensive, locally managed access to prescribed appliances for patients across the district*." The Committee also noted that the proposed premises would be located at Rowan Trade Park in Bradford. The Committee had regard to the Applicant's assertion that the proposed local DAC service would "*help ensure that every patient in Bradford has timely, safe, and convenient access to the appliance products and advice they need*." However, the Committee considered that, for the purposes of a current need application, the relevant test is whether a current need has been identified in the PNA. Accordingly, the Committee did not consider that a general assertion that DAC provision is currently limited in the area was, of itself, sufficient to satisfy the criteria for a current need application.

6.27 In its application, the Committee noted the Applicant had referred to the following in the PNA:

6.27.1 "*The Bradford Health and Wellbeing Board's PNA identifies a clear gap in the provision of appliance dispensing services across the district, with only one DAC currently registered. This restricted provision limits accessibility, choice, and support for patients who depend on regular appliance supplies, such as those living with long-term stoma, urology, or continence conditions. The PNA also indicates that many community*

pharmacies in Bradford do not provide stoma customisation or appliance use review (AUR) services, meaning patients who require these services must look outside their immediate locality. This creates disparities in access to essential care, particularly affecting housebound, elderly, and care home residents — groups who already experience higher levels of dependency and chronic conditions. Additionally, the ongoing pressures on primary care and hospital discharge pathways reinforce the need for a reliable, patient-centred appliance contractor able to coordinate directly with prescribers, care homes, and domiciliary services to ensure continuity of care."

6.28 The Committee was unable to identify any statement within the PNA which recorded a current need for Dispensing Appliance Contractor services, or a lack of access to such services, in the Bradford area for the purposes of paragraph 2(a) of Schedule 1. Accordingly, the Committee was not satisfied that the current need relied upon by the Applicant had been included in the relevant PNA as required by Regulation 13(1)(b).

6.29 The Committee noted the Applicant's submission on appeal that the Commissioner had "*failed to take into account that another DAC within the area would enhance accessibility and local integration with other care service providers.*" The Committee also noted the Applicant's further submission that the Commissioner had not taken into account that "*there are to be over 27,500 new homes built, with a projected population increase of 4,100*."

6.30 The Committee noted the representations provided by the Commissioner in response to these matters, which stated:

6.30.1 "*The application was assessed against the statutory test for an identified current need. The Bradford PNA did not identify any unmet current need for DAC services. While the PNA references planned housing development up to 2030, the committee considered that these developments are not yet realised, that no supplementary PNA statements have been issued, and that the appellant provided no evidence regarding the timing or certainty of population growth sufficient to support a current need*."

6.31 Further, the Committee noted Boots' comments that "*The PNA, and the previous one, does not identify any current need that an additional DAC contractor in the locality could fulfil. We also agree that the existing DAC supplies appliances to patients in the area and also nationally to patients via a postal system. That aside, no current gap has been highlighted within the assessment, so the application was correctly refused and this subsequent appeal, must be dismissed*." The Committee noted that the Applicant had not provided any further comments in response to the representations.

6.32 The Committee was of the view that the Applicant had not identified a statement in the PNA in accordance with paragraph 2(a) of Schedule 1 indicating services that are not provided in the area of the HWB but which the HWB is satisfied would, if they were provided, meet a current need for pharmaceutical services,

or pharmaceutical services of a specified type, in Bradford, which the proposed pharmacy can meet.

6.33 The Committee had regard to Section 3.2.3 of the PNA which states:

6.33.1 "*Dispensing appliance contractors*

Dispensing Appliance Contractors (DACs) are a specific subset of NHS pharmaceutical contractors who supply on prescription, appliances such as stoma and incontinence aids, dressings, and bandages (see Appendix 8 for full terms of service for DACs). They cannot supply medicines. There is one Dispensing Appliance Contractor in the District. Many patients use DACs for a variety of pharmaceutical services, meaning need for these services in pharmacies, including Stoma Appliance Customisation and Appliance Utilisation Review services, is lower and so not provided."

6.34 The Committee was of the view that any purported "need" identified by the Applicant in its application 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.

6.35 The Committee determined that the need in question was not included in the PNA 2025-2028 in accordance with paragraph 2(a) of Schedule 1.

6.36 In this case, the provisions of Regulation 13(1) were not met.

6.37 The Committee therefore did not proceed to consider the application having regard to those matters set out at 13(2).

6.38 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:

6.38.1 confirm the Commissioner's decision;

6.38.2 quash the Commissioner's decision and redetermine the application;

6.38.3 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.

6.39 Although the Committee had reached the same conclusion as the Commissioner, it had provided further reasoning in order to do so and therefore the Committee determined that the decision of the Commissioner must be quashed.

6.40 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.

6.41 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.

6.42 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.

7.4 Accordingly, the application is refused.

Case Manager
Primary Care Appeals