

**NATIONAL APPEAL PANEL**

constituted under

**THE NATIONAL HEALTH SERVICE (PHARMACEUTICAL SERVICES)  
(SCOTLAND) REGULATIONS 2009 (AS AMENDED)  
("the Regulations")**

**DECISION**

of the

**CHAIR**

of

**THE NATIONAL APPEAL PANEL**

in the application relating to

**2-3 HIGH STREET, MOFFAT**

**Applicants and Appellants: Dalston Pharmacy Limited**

**Health Board : NHS Dumfries and Galloway**

**PPC Decision issued : 6<sup>th</sup> May 2016**

**Panel Case Number: NAP57 (2016)**

## Decision of the Chairman of the National Appeal Panel

### 1. Background

- 1.1 This is an appeal against the decision of the Pharmacy Practices Committee of NHS Dumfries & Galloway ("the PPC") which was issued On 6<sup>th</sup> may 2016.
- 1.2 Dalston Pharmacy Limited ("the Applicants" or "the Appellants") made an application for inclusion in the pharmaceutical list of NHS Dumfries & Galloway ("the Board") to provide pharmaceutical services in respect of the premises at 2-3 High Street, Moffat, ("the Premises"), said application dated 20 January 2016.
- 1.3 The PPC under delegated powers of the Board held a hearing on 14 April 2016 and took evidence from the Applicants and interested parties and considered supporting documentation, and following upon which had determined that the provision of pharmaceutical services in the neighbourhood in which the Premises were located were adequate and accordingly refused the appeal.

### 2. Grounds of Appeal

- 2.1 The Appellants submitted a letter of appeal to the Board, received on 27 May 2016, the grounds of which may be summarised as follows:
  - 2.1.1 The demeanour and tone of questioning of one of the lay members of the PPC was aggressive and gave the impression that he had made up his mind in advance of the hearing.
  - 2.1.2 The PPC failed to make a definitive determination of the neighbourhood, either by reference to postal district or to physical boundaries.
  - 2.1.3 The PPC's decision as to the issue of adequacy did not take into consideration all the evidence including the Consultation Analysis Report ("CAR"). The PPC had noted the CAR had been responded to by a relatively large number of the neighbourhood population and that it revealed a theme of dissatisfaction that concluded that the "theme was deemed more towards disgruntlement with customer service received in the Well Pharmacy rather than complaint about the actual pharmaceutical services themselves". The CAR considered that dispensing of NHS prescriptions within the neighbourhood was inadequate as to promptness and that there was an overwhelming degree of dissatisfaction. The Appellants argued that this went further than "disgruntlement".
  - 2.1.4 The PPC considered there was a full range of services theoretically available, and that this equated to adequacy. The Appellants argued that this was flawed, that adequacy must relate to what is in fact available.
  - 2.1.5 The PPC speculated on the reasons as to why 24% of GP prescriptions in Moffat were dispensed outwith Moffat but its conclusions were not based on evidence that was before the PPC.
  - 2.1.6 The PPC misinterpreted the letter of support that the interested parties submitted from a local GP and that, whilst the letter was complimentary, it was not, as stated by the PPC, supportive of the delivery of services by the pharmacy as a whole. The letter ought to have been read in conjunction with the letter that the GP had submitted in the context of the CAR which made it clear that current demand for pharmacy services outstripped what was currently available and that there was an issue as to adequacy.
  - 2.1.7 A Mr Loughran, who was one of the contractor pharmacists sitting on the PPC, was an employee of the Board. He began one of his questions with a statement "with my Health Board hat on ...". As an employee of the Board, he should not have been present.
  - 2.1.8 Mrs Griffiths, who was representing Well Pharmacy, stated during the course of her

evidence that the company received no complaints over a 3 year period. The Appellants argue that this was incorrect in that, since publication of the Minutes, two patients had come forward with their own experience to support their complaints and attached their statements. As it appeared, the Committee deemed the lack of complaints to be significant (paragraphs 13.10 and 13.15). This new evidence added great weight when considering the issue of adequacy.

- 2.1.9 The Appellants enclosed letters from various parties following upon publication of the decision and in support of their appeal.

### 3. Evidence of the Parties to the Hearing

- 3.1 The evidence of the Applicants may be summarised as follows:

3.1.1 Mr Gordon Winter on behalf of the Applicants stated that his pharmacy business had 6 pharmacies in Cumbria and Dumfries & Galloway and accordingly knew the area well. He considered the neighbourhood to be the town of Moffat including Newton Wamphray and the south incorporating Kinnelhead, Grey Mare's Tail in the north east and across to Nether Howcleugh in the east, ie the DG10 postcode. He confirmed the 2001 census indicating the population of the town to be 2,135 and, in 2011, 2,582 ie a 21% increase. That included only the town within the 30mph traffic restricted signs, and the Moffat District Community Council considered the population of the Moffat area using its services required to include outlying areas such as Beattock, Wamphrey, Kinnelhead etc. In these circumstances, he would regard the population to be in the order of 4,000. The population was set to increase due to proposed plans for affordable housing and the Dumfries & Galloway local development plan for Moffat and Beattock indicated 265 new homes would be provided by 2024. There was, in addition, a transient tourist population visiting particularly Moffat Woollen Mill and other areas such as Beattock Caravan Park.

3.1.2 Moffat had the oldest population in Annandale and Eskdale with 26.8% over 65 years of age, against the Scotland average of 16.8%. He did not consider Moffat to be an area of deprivation, although it did have a higher prevalence of a number of diseases compared to Dumfries & Galloway average, including cancer, heart disease and stroke.

3.1.3 A local GP is due to retire which would result in a decrease in the number of GPs in Moffat and as, a consequence, the Applicants expected an increased demand on pharmacists' time and access, which raised the question as to whether the current pharmacy services provided in the neighbourhood were adequate when faced with the increased future demand for healthcare services. Whilst the PPC would require to consider whether the existing pharmacy could cope with such an increased demand, he cited other local towns indicating population per pharmacy which put Moffat with comparatively few pharmacies per population. The Applicants referred to the CAR to which the 252 respondents represented a high return and summarised a number of issues drawn from the CAR, including comments from those who were dissatisfied with the existing pharmacy, specifically relating to provision of services and waiting times and that 85% of respondents supported the new pharmacy application. The Applicants referred to letters of support from Dr Crosby and Dr Sharkey. Whilst the letter from Dr Crosby was too late for inclusion, it was read out by the Applicants, the gist of which was that the application had been discussed by practice staff and many patients referred to the fact that there was enough workload and demand for support for a new pharmacy. The Applicants had checked with Dr Sharkey who was comfortable with his statement of support [ it is noted in the Minutes that the Chair interrupted at this point to advise that as the copy letter from Dr Crosby had not been submitted on time, the PPC members may choose to disregard it as evidence]. The Applicants referred to the letter of support from the Area Pharmaceutical Committee, local support reflected in an article which appeared in the Moffat News at the time of the consultation and support from the town's Community Council which was of the opinion that there was room for two pharmacies for Moffat. In response to questions from the interested party, the Applicants stated that both the Premises and the Well Pharmacy were located centrally in Moffat and that a reasonable waiting time for a patient would be between 10-15 minutes, although the dispensing of an antibiotic

could usually be effected within 5 minutes.

- 3.1.4 In response to questions from members of the PPC, Mr Winter acknowledged that the consultation exercise was never going to have a 100% response rate but he was aware anecdotally of people who did not know that the consultation exercise had taken place and that public engagement was always difficult. In comparison with other consultation exercises, he considered a response rate of 6.3% to be favourable. He did not expect the Board to receive many complaints and that people tended to vote with their feet than use another pharmacy. He stated that with the anticipated loss of the GP it was expected that the Premises would focus more on core services and it was an opportunity to grow a Chronic Medication Service (CMS) and Minor Ailments Service (MAS), thereby taking pressure off the GPs, and that given the local situation it would encourage pharmacists to carry out independent prescribing, a position he and his pharmacist were keen to achieve. He noted that a high number of prescriptions issued by Moffat GP's were dispensed outwith the neighbourhood and explained that sometimes GP's posted prescriptions to the Lockerbie Pharmacy. He thought that there was a degree of ill health in the Moffat area that would increase as the population aged. He was of the view that with a prescription volume of 3,500 per month, the pharmacy would do very well and he had no concerns about the viability of his proposed pharmacy. He did not consider the lack of representation at the hearing by the representative of the local Community Council has been contradictory to the terms of their letter of support.
- 3.1.5 In answer to a further question, the Applicants stated that there was a lot of evidence from the CAR to support the statement that the current pharmacy was struggling to keep up with demand and that everything was rushed. Should his application be granted there would be more time available to spend with patients and to review medications. With the shortage of GPs, it was anticipated that the pharmacy would be the first port of call for patients and could triage patients and arrange GP appointments for patients of extreme concern. He felt that both the proposed and existing pharmacies would benefit.

3.2 The evidence of Ms Emma Griffiths of Well Pharmacy may be summarised as follows:

- 3.2.1 Ms Griffiths did not consider that the application was either necessary or desirable as there was adequate access to pharmaceutical services in the neighbourhood. She concurred that her neighbourhood was in line with the Applicants as also did she agree that the population was around 4,000 residents and that the neighbourhood was not deprived, there being a high level of car ownership, and that there were ordinary households having access to 2 or more cars. All services and amenities were available within the town of Moffat. Well pharmacy was located centrally and performed all core services to the NHS contract. The opening hours of Well Pharmacy were similar to those proposed for the new pharmacy. Well Pharmacy was fully compliant with DDA/Equality Act requirements, including the consultation area. It was actively engaged in supporting the health of the population of the neighbourhood despite conflicting CAR opinion. She questioned the terms of the CAR where it was highlighted that there was not adequate provision of addiction services, stoma services, CMS and eMAS, and questioned how the respondents knew the services were inadequate without personal experience. The pharmacy had 5 stoma service users yet 49 people responded that this service was inadequate. There were 12 users of addiction services whereas 42 respondents stated these services were not adequate and there was no waiting list for access to the service. She suggested that a reason for these responses may have been because the option to answer "don't know" was not available on the form.
- 3.2.2 Ms Griffiths read our letters of support from Dr Sharkey and a local care home, indicating that her pharmacy provided an excellent service including to tourists visiting Moffat.
- 3.2.3 She addressed the general themes from the CAR, particularly relating to delay in medications from suppliers and waiting times (her pharmacy standard was 9.5 minutes, ( although asserted that the waiting time could be longer depending on the number of items and their complexity). A delivery service was available and made

within a 15 mile radius of the pharmacy covering the whole neighbourhood. No formal complaints had been made to the Board about the service provided by her pharmacy. She recently used a mystery shopper to access customer service and carried out an independent public consultation exercise using an external company to find out what the responses would be like, and the results were that 96% of respondents rated the pharmacy as good, very good or excellent compared with a company target of 90%. Accordingly, it had over achieved.

- 3.2.4 In response to questions by the Applicants, Ms Griffiths stated that there was no evidence from the CAR that patients were unhappy with eMAS or CMS. She confirmed that her own survey was effected by an exit interview that had taken place on Moffat High Street that involved 50 consultees.
- 3.2.5 In response to questions from members of the PPC, Ms Griffiths stated that she could offer no explanation for the apparent poor levels of satisfaction in the CAR as her staff were working to a good standard.
- 3.2.6 In response to the question as to why, if the GP prescriptions had increased, had her pharmacy's dispensing figures not increased by the same percentage and in fact the previous year the number of items dispensed had decreased, to which she responded that patients had the ability to go elsewhere and suggested people were using pharmacies close to their workplace, eg Lockerbie or Lochmaben. She could not comprehend the results of the CAR as there was no specific reason that could be identified but there may have been an element of historical dissatisfaction, but there was nothing in the research the interested party had carried out to offer an explanation. She indicated that the responses may have been a "warning shot" for the existing pharmacy rather than based on something tangible. She repeated there had been no complaints to either the Board or her head office. She was asked to comment on the point that Dr Sharkey's support for Well Pharmacy did not tie up with that submitted in support of the Applicants, to which she responded that the differing responses were the result of being asked for letters of support at different times. She stated that the CAR was unable to address perceived inadequacy as it did not go into that level of detail and that any inadequacy that might be deemed by the PPC could be addressed by the existing pharmacy which had the ability to extend its opening hours, put in an ACT of a second full time pharmacist to be employed, which would give the neighbourhood the equivalent of two pharmacies without the Board incurring costs for an additional pharmacy, and she did acknowledge that Well Pharmacy needed to address patient perception and provide an adequate service whilst striving towards excellence.

#### 4. The PPC's Decision

- 4.1 The PPC considered the purpose, method of engagement and analysis of the responses to the CAR, along with the evidence submitted during the period of consultation, the evidence presented during the hearing and a recollection of the observations from each of the members from site visits.
- 4.2 The PPC are reported to have noted the **neighbourhood** as defined by the Applicants and which was agreed with by the interested party. In determining the neighbourhood, the PPC considered a number of factors, including that it should be a neighbourhood for all purposes, those resident and employed within it, natural and physical boundaries, general amenities such as schools/shopping areas, a mixture of public and private housing, the provision of flats and other recreational facilities, and the distances residents had to travel to obtain pharmaceutical and other services, as well as the availability of public transport. It is noted that the PPC sought legal advice on the issue of whether neighbourhood boundaries needed to be specified in its decision or whether the description of the neighbourhood as a postal district would be sufficient. It appears that the advice received was that, whilst it would be acceptable to describe the neighbourhood as a postal area, it would be best practice to describe the actual physical boundaries within the decision to allow an outline of the neighbourhood to be drawn on a map.
- 4.3 Turning to **adequacy** of the existing pharmaceutical services in the neighbourhood and whether granting the application was necessary or desirable in order to secure adequate

pharmaceutical services provision, the PPC are reported to have taken full account of the lengthy presentations which had been made to it by the Applicants and interested party as well as the details and papers that had been provided to the PPC members, which included the CAR. It noted that the Well Pharmacy, situated centrally within Moffat town centre, provided the full range of core pharmaceutical services to the neighbourhood, including the minor ailments service, acute medication service and public health services. It noted the range of non-core services provided by the Well Pharmacy. It considered that the Well Pharmacy was appropriately staffed for the number of items dispensed and that they were sufficiently trained and that there was a good patient uptake of pharmacy services such as eMAS, CMS and unscheduled care. It considered that the GPs in Moffat had not expressed criticism of the existing pharmacy services provided to the neighbourhood, indeed, one had been very supportive of the existing pharmacy service delivery and there had been no patient complaints about the pharmacy made to the Board.

- 4.4 The PPC noted that approximately 400 prescriptions issued by GPs in the neighbourhood were being dispensed outwith the neighbourhood, and this had been a rising trend over the past 3 years, resulting in 24% of an approximate annual figure of 120,000 prescriptions issued by GPs situated within Moffat being dispensed outwith Moffat. The PPC considered that the likely reasons for this, including that many neighbourhood residents work outwith the neighbourhood, including for large employers situated in the surrounding area as the Creamery in Lockerbie, Steven's Croft Biomass Power Station, a garden furniture maker and others. They considered it reasonable to infer that neighbourhood residents working regularly outwith Moffat would likely be obtaining prescription items from pharmacies closer to their locations where they were working each day rather than in Moffat itself. The PPC was aware that shopping and leisure facilities outwith the neighbourhood, eg the Tesco supermarket and ice rink in Lockerbie, drew many neighbourhood residents outwith Moffat on a regular basis, which could account for the number of prescription items being dispensed outwith the neighbourhood.
- 4.5 The PPC felt that there were no additional pharmaceutical services that could be provided by the Applicants that were not either already being provided by Well Pharmacy or were not capable of being provided by it. The PPC also gave lengthy consideration to the results of the CAR which they had acknowledged had been responded to by a relatively large number of the neighbourhood population and accepted that there was a strong theme of dissatisfaction concerning customer service issues amongst patients attending the Well Pharmacy, as also did they take into account that there were letters of support in favour of the application from politicians, doctors and the Community Council as well as from the Area Pharmaceutical Committee, but noted that the community council had chosen not to be represented at the hearing on the application.
- 4.6 In the presence of representatives of both the Applicants and the interested party, the Chair sought advice as to the correct practical approach towards applying the legal test in relation to the issue of adequacy, and were advised that the legal test had to be approached on a step by step basis, and that the PPC required to conclude its deliberations on the issue of adequacy before being able to assess whether it required to proceed to consider issues on necessity, desirability and securement of a pharmaceutical service provision. The PPC thereafter continued its deliberations on the issue of adequacy and decided that the standard to be achieved was neither "excellent" nor "poor" but "adequate". It considered what the CAR demonstrated in terms of the themes that could be drawn from the comments given by members of the public in answer to the question posed and was of the view that they leaned more towards "disgruntlement" with customer service received from the Well Pharmacy rather than complaints about the actual pharmaceutical services themselves, and expressed the hope that Well Pharmacy would respond positively to the CAR by addressing these service issues as part of its ongoing corporate service improvement strategy. In the circumstances the PPC did not consider that the current service provision could be judged inadequate, rather it was adequate and therefore there was no requirement for the PPC to address any other aspect of the legal test.

## 5. Discussion and Reasons for Decision

- 5.1 The Regulations require to be considered in light of the objects of the scheme set out under the National Health Service (Scotland) Act 1978 and, in particular, Section 27, in that it shall be the duty of every Health Board to make arrangements as to its area for the supply to persons in that area of proper and sufficient drugs and medicines which are ordered for those persons by a medical practitioner in pursuance of his functions in the Health Service. An Application made in any case should be granted by the Board after procedures set out in Schedule 3 of the Regulations are followed, if the Board is satisfied that it is necessary or desirable to grant an Application in order to secure in the neighbourhood in which the premises are located the adequate provision by persons included on the list of the services specified in the Application. This is further extended by Regulation 5 (10) of the Regulations in that an Application shall be granted by the Board: (1) only if it is satisfied that the provision of Pharmaceutical Services at the premises named in the Application is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located by persons whose names are included in the pharmaceutical list and: (2) if the boundaries of the neighbourhood within which the Applicants intend to provide pharmaceutical services falls within any part of a controlled locality, only if it is satisfied that the granting of such an application, in its opinion, would not prejudice the provision of NHS funded services in the controlled locality. For the purposes of clarification in terms of paragraph 1a of Schedule 3 of the Regulations, a controlled locality is an area within a Health Board which is remote or rural in character and which is served by a dispensing doctor. This latter provision does not apply in the current circumstances.
- 5.2 In terms of paragraph 3 (i) of Schedule 3, the PPC shall have regard to the pharmaceutical services already provided in the neighbourhood of the premises, the pharmaceutical services to be provided in the neighbourhood at those premises, any information available to the PPC which, in its opinion, is relevant to the consideration of the Application, the CAR, the Pharmaceutical Care Services Plan and the likely long-term sustainability of the pharmaceutical services to be provided by the applicants.
- 5.3 The grounds of appeal are limited to areas where the PPC has erred in law in its application of the provisions of the Regulations, that there has been a procedural defect in the way the Application has been considered, that there has been a failure by the PPC to properly narrate the facts or reasons upon which their determination of the Application is based, or there has been a failure to explain the application by the PPC of the provisions of the Regulations to those facts.
- 5.4 The principal point of the PPC's decision is whether or not it has exercised its judgement fairly and given adequate reasons for it and that it does not otherwise offend against the grounds of appeal set out in Schedule 3, paragraph 5 (2A) and (2B). It is relevant to note that the PPC comprises pharmacists and lay members who may be expected to understand the issues involved on the evidence before it. It is an expert tribunal. Equally, it must be understood that the PPC's decision must be intelligible and it must be adequate. It must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the principal issues and its reasoning does not give rise to any substantial doubt that it had erred in law. Such adverse inference will not readily be drawn.
- 5.5 The Appellants have complained about the demeanour and aggressive line of questioning by one of the lay members of the PPC which is, of course, not reflected in the minutes. If what the Appellants state is correct then, whilst it is not a legitimate point of appeal, I do have to note that it is an improper line of enquiry. The PPC is supposed to be an enquiry, an enabling process in order to establish the facts and the position of the relevant parties. To adopt a cross-examination technique is inappropriate in the circumstances. If, as I have stated, the Appellants were correct in their reporting of the line and tone of questioning, the Chair ought to have intervened. This is not a matter, however, for this jurisdiction to enter into but merely state that for the future should such an occurrence arise then it would be up to the Chair to arrest that line of questioning.
- 5.6 The CAR is not a determinative process; it is a matter for the PPC to take its report into account and to interpret it accordingly using their own expertise. There is little doubt, and which was acknowledged by the PPC, that there was a strong theme of dissatisfaction which

the PPC interpreted as leaning more towards "disgruntlement" with the existing pharmaceutical service rather than any complaint about the actual pharmaceutical service itself. That is a very fine distinction. Nevertheless, it was a conclusion that the PPC was entitled to draw. The Appellants also raised the matter of the number of prescriptions issued by GPs within Moffat which were being dispensed outwith Moffat and that there had been a rise in trend towards that level over the last 3 years, and the PPC then proceeded to speculate as to the reasons for this and the conclusions reached were not based on evidence that was before the committee. That statement is not strictly correct. Mrs Griffiths in her evidence responding to a question by a member of the PPC as to why the number of items dispensed was out of kilter with the number of prescriptions issued in Moffat had stated that the patients had the ability to go elsewhere and suggested that pharmacies close to their workplace, eg Lockerbie or Lochmaben would have dispensed. The PPC certainly did speculate on other reasons why the population would take their prescriptions outwith the neighbourhood but they were entitled to do so as some would no doubt have local knowledge and a site visit can be effective. It is surprising, however, that the PPC did not address the possibility raised by the Applicants that members of the population had "voted with their feet" but perhaps it felt that that was sufficiently covered by their acknowledgement that some of the population felt disgruntled by the services offered by the existing pharmacy.

- 5.7 The Appellants have stated that, whilst the PPC have attached some significance to the letter submitted by Dr Sharkey to the interested party in stating that " the doctor had in fact been very supportive of the existing service delivery". There was no mention of the letter from the same doctor supporting the Applicants' application in which it was stated that the current demand for pharmaceutical services is in excess of what can be provided by the existing pharmacy. Although I am unable to consider it as the letter is post-hearing, Dr Sharkey has sent a letter to the Appellants enclosed with their papers indicating significant delays in patients getting prescriptions from the existing pharmacy. It had stated that the Well Pharmacy had prescriptions sitting in a pile which they had not checked and did not feel that the pharmacy service as a whole was operating in the best interests of its patients. He indicates that he felt that his letter in support of the Well Pharmacy had been misquoted.
- 5.8 It is not certain what inference was drawn by the PPC's comment on a representative of the Community Council's failure to attend . If it was an adverse inference they were wrong in doing so . The Community Council had already made their views known . The PPC were not entitled to have assumed by their absence that a contrary opinion obtained . It is a criticism of their decision but not fatal to it .
- 5.9 The Appellants state that the PPC have failed to make a definitive determination as to neighbourhood. In its decision, the PPC refer to the legal advice received and had been advised that whilst it would be acceptable to describe the neighbourhood as a postal district, it would be best practice to describe the actual physical boundaries within the decision to allow an outline of an area to be drawn on a map . In the event , the PPC failed to determine the neighbourhood, either by reference to a postal district or by reference to boundaries. This ground of appeal is upheld as there is no definition of neighbourhood in that the PPC are reported to have "noted" the neighbourhood as defined by the Applicants and which was agreed by the interested party. It is not known whether they agreed with that neighbourhood although it may have been implicit in their decision, but there is no way of knowing. Having received legal advice, they proceeded to ignore it. I will deal with that and how it may be rectified below.
- 5.10 As to adequacy, it has to be said that it appears from the Minutes that the PPC could have justified their decision either way. They chose , however , on the evidence presented to them as an expert tribunal that the current provision was adequate . Their Decision too was adequate, which is all that it requires to be. There is no error in law or procedure ( save as mentioned in 5.9 above ) that would permit me to disturb its Decision .

## 6. Decision

- 6.1 As there has been a failure by the PPC to properly narrate the facts or reasons upon which their determination of the application was based, but that only in relation to its definition of neighbourhood, it is necessary to remit the decision back to the Board for reconsideration in order that it may properly address the issue of the definition, and the reasons for its definition, of neighbourhood. A re-hearing is not necessary but the PPC, as originally constituted (ie the



members who attended the hearing) will require to re-sit and consider this matter and thereafter issue a revised decision which will be communicated to all parties.

- 6.2 Otherwise, the remaining grounds of appeal set out by the Appellants disclose no reasonable grounds and accordingly the appeal is dismissed in terms of paragraph 5(5)(a)(i) of Schedule 3 of the Regulations. In the circumstances, it falls that paragraphs 5(2)(A) and 5(2)(B) are not engaged.

(sgd) JMD Graham

**J Michael D Graham**  
**Interim Chairman**  
**National Appeal Panel**  
**12th September 2016**

