

National Appeal Panel

Constituted under

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

**DECISION
of the
CHAIR
of**

THE NATIONAL APPEAL PANEL

In the application relating to

Unit 1, Home Farm, Marshall Way, Luncarty, Perth PH1 3UX

Applicant: Mr Umar Razzaq

Appellants: Davidsons Chemists

(the “the Appellant”)

Health Board: NHS Tayside (“the Board”)

PPC Decision: 27 August 2021

NAP reference: NAP 104 (2022)

Decision of the Chair of The National Appeal Panel

1. Background

- 1.1 This is an appeal against the decision of the Pharmacy Practices Committee (“PPC”) of the Board, which was taken at a meeting of the PPC on 10 August 2021 in relation to the application of Umar Razzaq (“the Applicant”). The decision of the PPC was subsequently issued on 27 August 2021.
- 1.2 The PPC granted the application. A letter of appeal has been submitted by Davidsons Chemists (“the Appellant”).

2. Grounds of Appeal

- 2.1 A single ground of appeal is stated by the Appellant. The Appellant considers that there has been a procedural defect as one of the interested parties, Browns Pharmacy (“Browns”), stated that they did not receive a copy of the CAR in advance of the hearing.

3. Decision

- 3.1 Under the Regulations, the available grounds of appeal against a decision of the Board are limited to circumstances in which there has been:
 - 3.1.1 an error in law by the Board in its application of the Regulations;
 - 3.1.2 a procedural defect in the way the application has been considered by the Board;
 - 3.1.3 a failure by the Board to properly narrate the facts and reasons upon which their determination of the application was based (“Schedule 3 para 5 (2B)(b)"); or,
 - 3.1.4 a failure to explain the application by the Board of the provisions of these Regulations to those facts (“Schedule 3 para 5 (2B)(c)").
- 3.2 I am required to consider the notice of appeal and:
 - 3.2.1 to dismiss the appeal if I consider that it discloses no reasonable ground of appeal or is otherwise frivolous or vexatious;
 - 3.2.2 remit the decision back to the Board for reconsideration if I consider that any of the circumstances set out at points 3.1.2 to 3.1.4 have occurred; or
 - 3.2.3 in any other case, convene the National Appeal Panel to determine the appeal.

4. Consideration of Point of Appeal

- 4.1 The Appellant’s letter of appeal is admirably concise. The Appellant states that Browns did not receive a copy of the CAR prior to the hearing. The Appellant considers that this prejudiced the ability of the representative of Browns to question the Applicant and, therefore, that there has been a procedural defect in the consideration of the application.
- 4.2 The PPC has advised that letters were issued to the interested parties on 29 June 2021 advising them of the hearing date and providing the relevant papers, including a copy of the CAR. During the hearing, the representative of Browns stated that although he had received the letter of 29 June 2021, he did not receive the CAR.

- 4.3 For the purposes of considering this appeal, I proceed on the basis that the statement made by the representative of Browns is correct.
- 4.4 Although it may be possible that this could have created potential prejudice to Browns in their ability to challenge the Applicant, there are three factors which I consider are significant in considering this appeal:
- a. During the hearing the CAR was provided to the representative of Browns and the PPC proposed that the hearing be adjourned for a period to allow the representative of Browns to consider the CAR. This proposal was declined by the representative of Browns;
 - b. Following the conclusion of the hearing the parties in attendance were asked to comment on whether they considered that they had received a fair hearing. At this point, the representative of Browns confirmed that he was satisfied that he had received a fair hearing and specifically confirmed that his submissions to the PPC would not have changed had he received the CAR in advance of the hearing; and
 - c. This appeal is not submitted by Browns. It is submitted by Davidsons Chemists, which does not contend that it did not receive the CAR or that its ability to challenge the Applicant was in any way prejudiced by Browns not receiving the CAR.
- 4.5 For these reasons, I am satisfied that there has been no procedural defect. If I am wrong in that and there has been a procedural defect, I am satisfied that the defect was irrelevant to the conduct of the hearing and consideration of the application. I, therefore, conclude that the appeal discloses no reasonable ground of appeal.

5. Disposal

- 5.1 For the reasons set out above, I dismiss the appeal.

(sgd) J Michael D Graham

Interim Chair

10th March 2022