

24 March 2025

REF: SHA/26416

**APPEAL AGAINST NHS GREATER MANCHESTER
DECISION REGARDING A BREACH NOTICE AT 513
HEMPSHAW LANE, OFFERTON, STOCKPORT, SK2 5TP**

8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU

Tel: 020 3928 2000
Email: nhsr.appeals@nhs.net

1 Outcome

- 1.1 Pursuant to paragraph 9(5)(a) of Schedule 3 to the Regulations, I confirm the decision of the Commissioner to issue the Breach Notice.

A copy of this decision is being sent to:

Eastway Pharma Ltd t/a Offerton Pharmacy
NHS Greater Manchester

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1 The Breach Notice

A Breach Notice dated 11 December 2025 was sent to Eastway Pharma Ltd (“the Appellant”) in respect of Offerton Pharmacy, 513 Hemphshaw Lane, Offerton, Stockport, SK2 5TP.

- 1.1 “Subject: Pharmacy Contracts Breach Notice – impeding patient choice and their access to essential services
- 1.2 A Remedial notice was issued to you on 23rd October 2024 in relation to a complaint from a patient received regarding your pharmacy and patient nomination without consent. You were asked to provide a formal response in relation to the actions required as part of the remedial notice by the deadline of 5pm on 22nd November 2024 in order to satisfy the remedial notice. The required actions were given as follows:
 - 1.3 “To remedy this breach going forward you are required to complete the following actions:
 - 1.3.1 *Audit of your standard operating policies, ensuring all members of staff have read and signed them and attach all front signed sheet and when the SOP was last reviewed as evidence.*
 - 1.3.2 *The nominated security officer to audit Smartcard usage and to feedback to the team any anomalies to ensure there is consistent adherence with the terms and conditions of the Smartcards by all members of staff. – Assurance to be provided that this action has been done via email.*
 - 1.3.3 *Ensure all staff members have read the attached article Important reminder pertaining to patient EPS nomination and patient choice and the associated links.”*
- 1.4 NHS Greater Manchester to date has received no communication or response from the pharmacy to the remedial notice issued. Therefore, Eastway Pharma Ltd have failed to action and remedy the breach in relation to the regulation listed below:

Complaints – NHS Complaints process under the Terms of Service, Schedule 4, Part 4, Section 34 of The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 which is outlined below:

34.- (1) An NHS pharmacist must have in place arrangements, which comply with the requirements of the Local Authority Social Services and National Health Service

Complaints (England) Regulations 2009(8), for the handling and consideration of any complaints.

(2) In this paragraph, "complaint" means a complaint about a matter connected with the provision of pharmaceutical services by the NHS pharmacist.

- 1.5 Therefore, the pharmacy is in breach of the regulation and not compliant with the NHS GM complaints requirements despite numerous attempts made by both the NHS Greater Manchester Primary Care Pharmacy Contract team and the Complaints Team.
- 1.6 Eastway Pharma Ltd has a right of appeal to the Secretary of State against the issuing of this breach notice. Should you choose to appeal then you should send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this notice by email to nhsr.appeals@nhs.net or by post to: Primary Care Appeals . NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London. E14 4PU
- 1.7 Please note that should you fail to comply with the requirements of this breach notice NHS Greater Manchester reserves the right to exercise its powers to take further action in relation to (insert contractor name) inclusion in the pharmaceutical list in respect of the above-named premises. This may include removal of the premises from the pharmaceutical list under Regulation 73 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended."

2 The Appeal

In an email of 11 December 2025 addressed to NHS Resolution, the Appellant appealed against NHS Greater Manchester's ("the Commissioner") decision. The grounds of appeal are:

- 2.1 "A breach notice has been issued by the ... Director of Primary Care NHS Greater Manchester relating to no response to the complaint submitted against Eastway Pharma Ltd. Please Kindly note that we have not received any Remedial Notice in October 2024. For your assurance, I have checked my inbox, junk, and deleted mail. I am not able to locate this Remedial notice anywhere in the mail. We have a dedicated staff to check mail regularly. I believe this mail must be directed incorrectly or missed in the system. We take these matters very seriously and take remedial actions promptly.
- 2.2 This is purely a mistake somewhere not an intentional action. I kindly request to remove this breach notice and give me some time to investigate this matter in detail.
- 2.3 I have also replied to [L] at Primary Care NHS Greater Manchester.
- 2.4 Your support will be much appreciated. Please feel free to contact me if need any further information."

In an email of 12 December 2025 which included a copy of the Breach Notice, the Appellant further stated:

- 2.5 "Thank you for taking time to review our case. Please see the attached breach notice in question.
- 2.6 I am still waiting from the NHS Greater Manchester which email address correspondence address they have been using. I would expect a recorded post for such matter if no response is made the email. We regularly check our mail.
- 2.7 If you require any additional information please let me know."

3 Summary of Representations

This is a summary of representations received on the appeal.

THE COMMISSIONER

3.1 “Thank you for the email and letter regarding the appeal from Eastway Pharma Ltd against a breach notice issued by NHS Greater Manchester. Please find attached the following:

3.1.1 Cover letter detailing the background to the breach notice being issued

3.1.2 Copy of the breach notice

3.1.3 Copy of the remedial Notice

3.1.4 Copy of the email to show the Remedial Notice was sent

3.2 The information below is taken from the PSRC minutes from the meeting held on Friday 27th September 2024:

FPF95 Eastway Pharma Ltd T/A Offerton Pharmacy 513 Hempshaw Lane, Offerton, Stockport, SK2 5TP Pharmacy Complaint.

Following complaint from patient regarding nomination. Suggest uphold the complaint now data has been validated by [RB] RA Authority lead and remedial letter to be sent under Schedule 4, Part 2

Additional requirements in relation to electronic prescribing

11 <https://www.legislation.gov.uk/ukxi/2013/349/schedule/4/part/2/made>

Action: to be changed to a Remedial Notice”

Cover letter detailing the background to the breach notice being issued:

3.3 “Thank you for your letter dated 16th December 2024 with regards to the above appeal received from Eastway Pharma Ltd. Please find below our representations in relation to this appeal.

3.4 We received information in August 2024 from our Complaints team regarding a patient complaint specifically around prescription nomination without consent. An investigation was undertaken and the details discussed at PSRC on 27th September 2024 where it was agreed that a remedial notice should be issued to the Contractor, please see attached. The Remedial notice was issued on 23rd October 2024 with the applicant being asked to provide a formal response to the actions required by the deadline of 5pm on 22nd November 2024 in order to satisfy the remedial notice.

3.5 The required actions were given as follows:

3.5.1 *“To remedy this breach going forward you are required to complete the following actions:*

- 3.5.1.1 *Audit of your standard operating policies, ensuring all members of staff have read and signed them and attach all front signed sheet and when the SOP was last reviewed as evidence.*
- 3.5.1.2 *The nominated security officer to audit Smartcard usage and to feedback to the team any anomalies to ensure there is consistent adherence with the terms and conditions of the Smartcards by all members of staff. – Assurance to be provided that this action has been done via email.*
- 3.5.1.3 *Ensure all staff members have read the attached article Important reminder pertaining to patient EPS nomination and patient choice and the associated links.”*
- 3.6 The Remedial notice was sent to pharmacy.fpf95@nhs.net email address, this is the F code email address held on pharmaceutical list.
- 3.7 By Terms and Conditions any pharmacy in the UK must apply for an NHS shared mailbox email address (site specific) via <https://portal.nhs.net/pharmacyregistration#/>
- 3.8 This is a regulatory requirement under the amendments of [The National Health Service \(Charges and Pharmaceutical and Local Pharmaceutical Services\) \(Amendment\) Regulations 2020](#)
- 3.9 The applicant must ensure a minimum of two members of staff have access at all times to the pharmacy.(ODScode)nhs.net as this will be the route that the applicant will be contacted by NHS GM, NHS England.
- 3.10 As NHS Greater Manchester received no response from Eastway Pharma Ltd to the remedial notice issued by the deadline given, therefore, we proceeded to issue a Breach Notice as the pharmacy had failed to action and remedy the breach in relation to the regulation listed below:

Complaints – NHS Complaints process under the Terms of Service, Schedule 4, Part 4, Section 34 of The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 which is outlined below:

34.- (1) *An NHS pharmacist must have in place arrangements, which comply with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009(8), for the handling and consideration of any complaints.*

(2)

- 3.11 The Breach Notice was issued on 11th December 2024 and this was emailed to the same email address previously used (phmaracy.fpf95@nhs.net) [sic]. The Contractor did provide a reply to the breach notice on the same day the email was sent.”

Included with the representations was a copy of the letter of 28 October 2024 sent to the Appellant by email on the same date:

- 3.12 “Subject: Pharmacy Contracts Remedial Notice – impeding patient choice and their access to essential services.
- 3.13 This remedial notice is issued as we have received a complaint from a patient with regards to their nomination being renominated to your pharmacy without their consent.

These complaints were investigated and found to have had their nominations moved repeatedly to your pharmacy. This is a breach of the Terms of Service [The National Health Service \(Pharmaceutical and Local Pharmaceutical Services\) Regulations 2013](#) Schedule 4 Part 2 as this would impede patients access to essentials services.

- 3.14 This matter was discussed at PSRC on 27th September 2024 and it was determined that in order to remedy the breach of the Terms of Service listed above, a formal response is required from the pharmacy within 30 days of the date of this letter, deadline of 5pm on 27th November 2024.
- 3.15 To remedy this breach going forward you are required to complete the following actions:
- 3.15.1 Audit of your standard operating policies, ensuring all members of staff have read and signed them and attach all front signed sheet and when the SOP was last reviewed as evidence.
- 3.15.2 The nominated security officer to audit Smartcard usage and to feedback to the team any anomalies to ensure there is consistent adherence with the terms and conditions of the Smartcards by all members of staff. – Assurance to be provided that this action has been done via email.
- 3.15.3 Ensure all staff members have read the attached article Important reminder pertaining to patient EPS nomination and patient choice and the associated links.
- 3.16 If no response is received to this remedial notice a formal breach notice will be issued to you. If you require any assistance in the matter, please email gmhscp.gmtop@nhs.net "
- Enclosure with the letter:
- 3.17 "Important reminder pertaining to patient EPS nomination and patient choice.
- 3.18 Following a number of incidents relating to patient nominations being moved to other pharmacies without patient consent and in some cases repeatedly, this has led to an increase in complaints which are being investigated across Greater Manchester.
- 3.19 Please be reminded that nominations should only be changed or removed at the request of the patient. A patient can choose to change their nomination at any time.
- 3.20 Once a patient moves their nomination, the previous legacy pharmacy ceases to provide a service to that patient and therefore should not be in contact once the nomination has been moved. Whilst we appreciate the pressures that our community pharmacies are under and the detriment that losing patients' nominations can cause; this remains their choice and there should be no persuasion to bring the patient back.
- 3.21 If the patient feels their EPS nomination has been moved without their consent and they feel unable to directly liaise with pharmacy themselves, please signpost patients or their representatives to formally complain to either their locality, which can be found by clicking the link:

[NHS GM | Greater Manchester Integrated Care Partnership \(gmintegratedcare.org.uk\)](https://gmintegratedcare.org.uk)
<https://gmintegratedcare.org.uk/nhs-gm/>

- 3.22 and selecting the “My Borough” tab, or they may wish to submit a complaint to the NHS GM Complaints Team via the following options:

3.22.1 Email – nhsgm.patientservices@nhs.net

3.22.2 Phone – 0161 271 3980, 9am-4pm Monday-Friday (excluding Bank Holidays)

3.22.3 Post – NHS Greater Manchester, The Tootal Buildings, 56 Oxford Street, Manchester, M1 6EU.

- 3.23 Please also note that disputes relating to patient nominations cannot be investigated until the patient has reported their complaint themselves or via an advocate, that cannot be through an NHS Contractor as this would be deemed as conflict of interest.

- 3.24 For further resources and guidance please click on the links below

[CPE: The four guiding principles of patient nomination](#)

<https://cpe.org.uk/wp-content/uploads/2020/03/PSNC-Briefing-034.16-EPSnomination---core-principles-updated-2020-1.pdf>

[Nominating a dispenser - NHS England Digital](#)

<https://digital.nhs.uk/services/electronic-prescription-service/nominating-a-dispenser>

Also included with the representations was a copy of a letter of 23 October 2024 addressed to the Appellant which stated:

- 3.25 “This remedial notice is issued as we have received a complaint from a patient with regards to their nomination being renominated to your pharmacy without their consent. These complaints were investigated and found to have had their nominations moved repeatedly to your pharmacy. This is a breach of term of Service [The National Health Service \(Pharmaceutical and Local Pharmaceutical Services\) Regulations 2013](#) schedule/4/part/2 in as this would be [sic] impede patients access to essentials services.
- 3.26 This matter was discussed at PSRC on 27th September 2024 and it was determined that in order to remedy the breach of the Terms of Service listed above, a formal response is required from the pharmacy within 30 days of the date of this letter, deadline of 5pm on 22nd November 2024.
- 3.27 To remedy this breach going forward you are required to complete the following actions:
- 3.27.1 Audit of your standard operating policies, ensuring all members of staff have read and signed them and attach all front signed sheet and when the SOP was last reviewed as evidence.
- 3.27.2 The nominated security officer to audit Smartcard usage and to feedback to the team any anomalies to ensure there is consistent adherence with the terms and conditions of the Smartcards by all members of staff. – Assurance to be provided that this action has been done via email.

3.27.3 Ensure all staff members have read the attached article Important reminder pertaining to patient EPS nomination and patient choice and the associated links.

3.28 If no response is received to this remedial notice a formal breach notice will be issued to you.

3.29 If you require any assistance in the matter, please email gmhscp.gmtop@nhs.net

4 Observations

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

5 Consideration

5.1 Under Regulation 71(1) "Breaches of terms of service: breach notices" of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations"), a Breach Notice may be issued:

71. (1) Where an NHS chemist (C) breaches a term of service and the breach is not capable of remedy, NHS England may by a notice ("a breach notice") require C not to repeat the breach.

5.2 I note that in the Regulations an NHS Chemist means "an NHS appliance contractor or an NHS pharmacist". An NHS pharmacist is defined as "a person included in a pharmaceutical list of the type referred to in regulation 10(2)(a);". Regulation 10(2)(a) states:

10(2) "Those lists (which are pharmaceutical lists) are

(a) a list of persons who undertake to provide pharmaceutical services in particular by way of the provision of drugs;"

5.3 The Regulations contain no definition as to what constitutes a breach of terms of service which is not capable of remedy.

5.4 I note that the pharmacy is included on the pharmaceutical list and that there is no dispute between the parties with regard to this.

5.5 The Breach Notice was issued pursuant to Regulation 71(1) and is compliant with the requirement of a breach notice as it includes the nature of the breach and an explanation of the Appellant's right of appeal under Regulation 77(1)(c).

5.6 I note that the Breach Notice states:

"A Remedial notice was issued to you on 23rd October 2024 in relation to a complaint from a patient received regarding your pharmacy and patient nomination without consent. You were asked to provide a formal response in relation to the actions required as part of the remedial notice by the deadline of 5pm on 22nd November 2024 in order to satisfy the remedial notice..."

5.7 I note that a second remedial notice was sent to the Appellant on 28 October 2024 and I have been provided with a copy of the cover email sent to the Appellant on this date. I note that in both the 23 October and 28 October remedial notices the Appellant was

requested to provide a formal response within 30 days from the date of the remedial notice.

- 5.8 From the information before me, and confirmed in the Breach Notice, it appears that no response to either of the remedial notices was received by the Commissioner.
- 5.9 At this point of the consideration, I am obliged to consider if the Appellant had the opportunity to engage with and enter into local dispute resolution with the Commissioner as part of the decision making process. . This is not straight forward as the Appellant claims to have not received the remedial notices which would have triggered local dispute resolution. The fact that there was no response from the Appellant resulted in the Breach Notice being issued. . I will address the matter of local dispute resolution later in this determination.
- 5.10 I note that the Appellant seeks to appeal against the decision of the Commissioner to issue the Breach Notice for failing to action and remedy a patient complaint.
- 5.11 I note that “Complaints” is found in Schedule 4, Part 4 “Other Terms of Service” under paragraph 34 and states:

34. Complaints

- (1) An NHS pharmacist must have in place arrangements, which comply with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 for the handling and consideration of any complaints.*
- (2) In this paragraph, “complaint” means a complaint about a matter connected with the provision of pharmaceutical services by the NHS pharmacist.*

- 5.12 The Commissioner has provided, both within the remedial notice and the Breach notice as well as within their representations, links to the Regulations. In addition, I note that the remedial notices in the supporting information “Important reminder pertaining to patient EPS nomination and patient choice” direct the Appellant to the Commissioner’s website as well as providing further information regarding “The four guiding principles of nominating” and “Nominating a dispenser”.
- 5.13 I have no information before me as to the complaint, however I am of the view that the actual contents of the complaint are not relevant to the issuing of the remedial notices and the Breach Notice, it is the subsequent actions of the Appellant that are the subject of the Breach Notice.
- 5.14 I have also been provided, by the Commissioner, with a copy of the email which was sent to the Appellant with the remedial notice dated 28 October 2024 which confirms the email address used, which is the premises specific email address. I note that the Appellant disputes the receipt of either of the remedial notices via email.
- 5.15 With regard to the premises specific email address being used the Commissioner states:

“The Remedial notice was sent to pharmacy.fpf95@nhs.net email address, this is the F code email address held on pharmaceutical list.

By Terms and Conditions any pharmacy in the UK must apply for an NHS shared mailbox email address (site specific) via <https://portal.nhs.net/pharmacyregistration#/>

This is a regulatory requirement under the amendments of The National Health Service (Charges and Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2020 (legislation.gov.uk).

The applicant must ensure a minimum of two members of staff have access at all times to the pharmacy.(ODScode)nhs.net as this will be the route that the applicant will be contacted by NHS GM, NHS England.”

- 5.16 Whilst the Appellant disputes the receipt of the original remedial notices by email, I note that there is no dispute from the Appellant that pharmacy.fpf95@nhs.net is the premises specific email address. I note the comments from the Commissioner that the Appellant responded to the Breach Notice on 11 December 2024 which was sent to this same email address. I further note that this is the email address which was used by the Appellant to submit its appeal and is the correct premises specific address for the pharmacy.
- 5.17 I note that the Commissioner has quoted from the Regulations regarding the requirement of pharmacies to ensure that two members of staff have access to the pharmacy. I further note that this has not been disputed by the Appellant and it is confirmed in the appeal that they “have a dedicated staff to check mail regularly”. I am of the view that the responsibility lies here with the Appellant and it is unfortunate in this instance that the remedial notices were apparently not identified as such by the Appellant’s staff. Returning to the matter of local dispute resolution, there was a missed opportunity for the Appellant to address the remedial notices which may have resulted in local resolution. Therefore, I do not find that the Commissioner did not provide an opportunity for the Appellant to engage and enter into local dispute resolution with the Commissioner as part of the decision making process.
- 5.18 Finally, the Appellant argues that it would expect “recorded post for such matter if no response is made by email.” However I note there is no requirement in the Regulations for the Commissioner to correspond with NHS pharmacists in any other way, other than by its NHS mailbox.
- 5.19 Whilst I note that the Appellant has sought to appeal against the Breach Notice, I have not been provided with any information from the Appellant that they have since complied with the actions set out in the remedial notice and repeated in the Breach Notice.
- 5.20 As I result of the comments I make above, I am of the view that:
- 5.20.1 No confirmation has been provided that the standard operating procedures have been audited and all staff have read and signed them to confirm when the SOP was last reviewed;
- 5.20.2 The Appellant’s nominated security officer has not audited Smartcard usage and feedback to the team any anomalies and assurance has not been provided, by email, to the Commissioner that this action has been done;
- 5.20.3 No confirmation has been provided to show that all staff members have read the article “Important reminder pertaining to patient EPS nomination and patient choice and associated links” as provided with the remedial notice;
- 5.20.4 Such action constitutes a breach of the Appellant’s terms of service as set out in paragraph 34 of Schedule 4, Part 4 to the Regulations; and.
- 5.20.5 The Commissioner was entitled to issue the Breach Notice.

6 Decision

- 6.1 I am of the view that under NHS Resolution's powers, as set out in paragraph 9(5) of Schedule 3 to the Regulations, I may either confirm the decision of the Commissioner or substitute for that decision any decision that the Commissioner could have taken when it took that decision.
- 6.2 Pursuant to paragraph 9(5)(a) of Schedule 3 to the Regulations, I confirm the decision of the Commissioner to issue the Breach Notice.

**Head of Appeals
NHS Resolution**