

25 June 2025

REF: SHA/ 26579

**APPEAL AGAINST SUFFOLK AND NORTH EAST
ESSEX ICB DECISION REGARDING A BREACH NOTICE
AT EVERLASTING SOLUTIONS LTD T/A COLCHESTER
CITY PHARMACY 7 PRIORY WALK, COLCHESTER,
ESSEX, CO1 1LG**

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:
Everlasting Solutions Ltd t/a Colchester City Pharmacy
Suffolk and North East Essex ICB

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1 The Breach Notice

A Breach Notice dated 31 March 2025 was sent to Everlasting Solutions Ltd t/a Colchester City Pharmacy ("the Appellant") in respect of 7 Priory Walk, Colchester, Essex, CO1 1LG

- 1.1 "I am writing to inform you that the Pharmaceutical Services Regulations Committee (PSRC) met on 12 March 2025, where they were made aware of the failure of Everlasting Solution Ltd to inform Suffolk and North East Essex Integrated Care Board (ICB) of the investigation by the General Pharmaceutical Council into the professional conduct of [UBN], Superintendent.
- 1.2 It is a requirement of paragraph 31, Schedule 4 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 that Everlasting Solution Ltd, which includes the director and superintendent, notifies the ICB within 7 days of becoming aware of such an investigation and to provide specified information.
- 1.3 The decision was made by the Committee that the attached Breach Notice be served."

Breach Notice

- 1.4 **"Name of contractor: Everlasting Solution Ltd**
- 1.5 **Address of premises: 7 Priory Walk, Colchester, Essex, CO1 1LG (FDL70)**
- 1.6 **Date of inclusion in the pharmaceutical list for the area of Essex Health and Wellbeing Board: 19 August 2024.**
- 1.7 **This is a breach notice issued under Regulation 71 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (the 2013 regulations).**
- 1.8 **Nature of the breach:**
- 1.9 Failure of Everlasting Solution Ltd, which includes the director and superintendent, to notify Suffolk and North East Essex ICB, in writing within 7 days of the matters arising, that [UBN], Superintendent
 - 1.9.1 became the subject of an investigation into their professional conduct by the General Pharmaceutical Council (as required by paragraph 31(1)(i), Schedule 4 of the 2013 regulations).
- 1.10 You are required to not repeat the breach again.

- 1.11 Appeals:
- 1.12 You have a right of appeal to the Secretary of State against Suffolk and North East Essex ICB's decision. Should you choose to appeal then either complete the online form available on the NHS Resolution website www.resolution.nhs.uk or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this notice to nhsr.appeals@nhs.net or:
- 1.13 Primary Care Appeals
NHS Resolution
8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU
- 1.14 Please note that should you fail to comply with the requirements of this breach notice we reserve the right to exercise our powers to take further action in relation to your 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 a letter dated 1 April 2025 addressed to NHS Resolution, the Appellant appealed against Suffolk and North East Essex ICB's ("the Commissioner") decision. The grounds of appeal are:

- 2.1 "I am writing to formally appeal the breach notice issued to Everlasting Solutions Ltd, trading as Colchester City Pharmacy, 7 Priory Walk, Colchester, Essex, CO1 1LG, by Suffolk and North East Essex ICB.
- 2.2 Upon becoming aware of the situation, we learned that [UN] had already resigned from her role, and we have provided details of the relevant time periods. While we fully respect the decision made by SNEE ICB, the circumstances leading to this breach were beyond our control. Until we were informed by the regulatory body, we were unaware of the seriousness of the investigation.
- 2.3 Given these factors, I kindly request a reconsideration of the breach notice and the suspension. I would be grateful for the opportunity to discuss this matter further and provide any additional information required to support our appeal.
- 2.4 Thank you for your time and consideration. I look forward to your response."
- 2.5 [Email trail enclosed].

3 Summary of Representations

This is a summary of representations received on the appeal.

3.1 The Commissioner

- 3.1.1 "Please note that from the 01 April 2023, community pharmacy contracting and commissioning has been delegated to Integrated Care Boards (ICBs). Hertfordshire and West Essex (HWE) ICB are hosting the function on behalf of the six East of England ICBs.

- 3.1.2 Please find below information we wish to be considered in response to your letter of 3 April 2025 against the decision by Suffolk and North East Essex (SNEE) ICB to issue a breach notice to Everlasting Solutions Ltd (the Appellant) for failure to notify in writing, within 7 days of its occurrence, that their Superintendent Pharmacist (SI), Miss [UBN], became the subject of an investigation into her professional conduct by the General Pharmaceutical Council (GPhC) as required by paragraph 31(1)(i), Schedule 4 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended (the Regulations).
- 3.1.3 Having reviewed the letter of appeal from the Appellant, we remain of the opinion that the issuing of a breach notice was correct.
- 3.1.4 The grounds for the appeal appear unclear as the Appellant acknowledges that a breach has taken place and describes “the circumstances leading to this breach.” (Letter of appeal, page 1). There appears to be no dispute that a breach has taken place. The Appellant further explains:
- 3.1.4.1 *“Upon becoming aware of the situation, we learned that [UN] had already resigned from her role, and we have provided details of the relevant time periods. While we fully respect the decision made by SNEE ICB, the circumstances leading to this breach were beyond our control. Until we were informed by the regulatory body, we were unaware of the seriousness of the investigation. Given these factors, I kindly request a reconsideration of the breach notice and the suspension.”* (Letter of appeal, page 1).
- 3.1.5 The ICB notes that the Appellant has asked the ICB to ‘reconsider the breach notice and the suspension’. As NHS Resolution will be aware, the ICB cannot reconsider the decision made and remains of the opinion that the issuing of a breach notice was correct. The ICB would also like to confirm that no suspension took place as a result of the breach notice being served.
- 3.1.6 The ICB notes that ‘being unaware of the seriousness of the investigation’ does not negate the regulatory requirement set out in paragraph 31(1)(i), Schedule 4 of the Regulations:
- 3.1.6.1 *31(1) An NHS pharmacist (P) and, where P is a body corporate, every director and superintendent of P must, within 7 days of its occurrence, inform the NHSCB in writing if they—*
- 3.1.6.2 *(i) become the subject of any investigation into their professional conduct by any licensing, regulatory or other body;*
- 3.1.7 The Regulations require the ICB to be informed in a timely matter. This is not dependent on the severity of the investigation.
- 3.1.8 The ICB notes that whilst undertaking local dispute resolution the Appellant states that they first heard about the GPhC investigation on 13 February 2025. *“We became aware of this matter only this morning, following a telephone call from the General Pharmaceutical Council (GPhC) at 10:14hrs, almost six days after the investigation began. Prior to this notification, we had no knowledge of any investigation involving Ms. [N]. However, she has mentioned being involved in a probe that is not reflected in the GPhC records”.* (Letter of appeal, page 7).

- 3.1.9 The Appellant then confirmed to the ICB on 24 February 2025 that *“Ms [N] mentioned being involved in a probe around the beginning of January. At the time there was no Fitness to Practice issue reflected on the GPhC portal, nor did we receive any communication – via call or email – from the GPhC regarding an investigation against her”*. (Letter of appeal, page 6).
- 3.1.10 The GPhC confirmed to the ICB on 24 February 2025 that Ms [N] was notified of the investigation on 21 November 2024 via a telephone call and a letter via email that day.
- 3.1.11 The GPhC also confirmed that they had “checked with the Case Officer and they confirm that they spoke to the Director of Everlasting Solutions Ltd, Mr [VT] on 13 February for the first time to enquire about Ms [N]’s employment. However, Mr [T] advised that he had been informed by Ms [N] prior to this which the Case Officer confirmed with her representative before contacting Mr [T].” (Attached)
- 3.1.12 The ICB notes that the Appellant states *‘to the best of our knowledge, there have been no concerns raised regarding Ms. [N]’s fitness to practise while she was employed with us. Based on the information provided by the GPhC, the ongoing investigation pertains to her previous employment with Spire Health. We have not been informed of any issues relating to her ability to practise safely, competently, and professionally.’* (Letter of appeal, page 7).
- 3.1.13 The ICB notes that the GPhC investigation against Ms [N] is regarding her professional conduct during her time as SI for Everlasting Solution Ltd regardless of other places where she is/has been employed.
- 3.1.14 The Regulations envisage proactive provision of information by the body corporate within a set timescale and that was not adhered to. Given that the deadline to provide the information has now passed, whilst the ICB has now been informed, it is not possible to remedy the failure to provide the information within the required timescale. The ICB also notes that the requirement to notify the ICB is not within 7 days of the request to provide it, rather it is within 7 days of its occurrence.
- 3.1.15 The ICB remains of the opinion that there has been a breach of paragraph 31(1)(i), Schedule 4.”

PSRC Report dated 7 March 2025

- 3.1.16 **“Request to issue a Breach Notice to Everlasting Solution Ltd t/a Colchester City Pharmacy, 7 Priory Walk, Colchester, Essex, CO1 1LG (FDL70)**
- 3.1.17 The Pharmaceutical Services Regulations Committee is asked to consider issuing a breach notice to Everlasting Solution Ltd t/a Colchester City Pharmacy under Regulation 71 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.
- 3.1.18 **Nature of the Breach**
- 3.1.19 Failure of Everlasting Solution Ltd under Terms of Service Paragraph 31(1)(i), Schedule 4 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 to inform Suffolk and North East Essex ICB, in writing within 7 days, that Miss [UBN], Superintendent pharmacist ([redacted]), became the

subject of investigations into their professional conduct by the General Pharmaceutical Council (GPhC).

3.1.20 Background

3.1.21 On the 28th October 2024, the Pharmacy and Optometry Team (P&O Team) received a Change of Superintendent notification involving Miss [UBN]. The fitness review was heard at PSRC on 29th January 2025 where it was noted that the GPhC has advised that Miss [N] is currently under investigation and that she had been made aware of the investigation by the GPhC. This was not declared on the Annex 1, submitted by the director Mr [VT].

3.1.22 The contractor was contacted on 13th February 2025 in line with regulation 69 of the 2013 regulations to ascertain why they have failed to inform us of the GPhC investigation. The contractor responded stating that the GPhC had contacted them that day and that it was the first that they were made aware of the investigation, but that the SI had previously “mentioned being involved in a probe”. The contractor noted that the SI had already resigned, on 7th February 2025, at this point.

3.1.23 [Email embedded].

3.1.24 The GPhC was contacted on 24th February 2025 and confirmed that Miss [N] was notified of the investigation on 21st November 2024. They also noted that Mr [VT] had advised during the phone call from the GPhC on 13th February 2025 that Ms [N] had informed him prior to this of the ongoing case.

3.1.25 [Email embedded].

3.1.26 The contractor was asked for further clarification on 24th February 2025 regarding when he was first informed of the probe by Ms [N] and stated that this was around the beginning of January but that there was nothing on the GPhC portal mentioning this.

3.1.27 [Email embedded].

3.1.28 Recommendation

3.1.29 The recommendation is to issue a breach notice to Everlasting Solution Ltd t/a Colchester City Pharmacy for the failure by Mr [VT] to notify Suffolk and North East Essex ICB within 7 days of being becoming aware that the Superintendent, Miss [UBN], was the subject of investigations into their professional conduct by the GPhC.”

PSRC meeting minutes dated 12 March 2025

3.1.30 “The Pharmaceutical Services Regulations Committee (hereafter referred to as “the Committee”) considers all pharmaceutical services applications for the 6 Integrated Care Boards (ICB) within the East of England footprint. NHS Hertfordshire and West Essex ICB (HWE ICB) hosts the meeting on behalf of the 6 ICBs, in accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (hereafter referred to as “the Regulations”).

3.1.31 **Request to issue a Breach Notice to:** (FDL70) Everlasting Solution Ltd t/a Colchester City Pharmacy, 7 Priory Walk, Colchester, Essex, CO1 1LG

3.1.32 The Committee considered issuing a Breach Notice to Everlasting Solution Ltd t/a Colchester City Pharmacy under Regulation 71 of the Regulations.

3.1.33 **Nature of the Breach**

3.1.34 Failure of Everlasting Solution Ltd under Terms of Service Paragraph 31(1)(i), Schedule 4 of the Regulations to inform Suffolk and North East Essex ICB, in writing within 7 days, that Miss [UBN], Superintendent pharmacist (2204382), became the subject of investigations into their professional conduct by the General Pharmaceutical Council (GPhC).

3.1.35 **Background**

3.1.36 On the 28 October 2024, the P&O Team received a Change of Superintendent notification for Miss [UBN]. The fitness review was heard at the Committee [sic] on 29 January 2025 where it was noted that the GPhC has advised that Miss [N] is currently under investigation and that she had been made aware of the investigation by the GPhC. This was not declared on the Annex 1, submitted by the director Mr [VT].

3.1.37 The contractor was contacted on 13 February 2025 in line with Regulation 69 of the Regulations to ascertain why they have failed to inform Suffolk and North East Essex ICB of the GPhC investigation. The contractor responded stating that the GPhC had contacted them that day and this was the first time that they had been made aware of the investigation. Mr [VT] also stated that the SI had previously “mentioned being involved in a probe”. The contractor noted that the SI had already resigned on 7 February 2025 at this point. A copy of the email trail was shared within the committee report.

3.1.38 The GPhC was contacted on 24 February 2025 and confirmed that Miss [N] was notified of the investigation on 21 November 2024. They also noted that Mr [VT] had advised during the phone call from the GPhC on 13 February 2025 that Ms [N] had informed him prior to this of the ongoing case. A copy of the email trail was shared within the committee report.

3.1.39 The contractor was asked for further clarification on 24 February 2025 regarding when he was first informed of the investigation by Ms [N] and stated that this was around the beginning of January 2025 but that there was nothing on the GPhC portal mentioning this. A copy of the email trail was shared within the committee report.

3.1.40 **Decision**

3.1.41 The Committee agreed to issue a Breach Notice to Everlasting Solution Ltd t/a Colchester City Pharmacy for the failure to notify Suffolk and North East Essex ICB within 7 days of being becoming aware that the Superintendent, Miss [UBN], was the subject of investigations into their professional conduct by the GPhC.”

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 Under Regulation 69(1), before issuing a breach notice, the Commissioner must:

5.5.1 *“make every reasonable effort to communicate and co-operate with an NHS Chemist (C) with a view to resolving any dispute between [the chemist] and NHS England relating to [the chemist’s] compliance with [the chemist’s] terms of service.”*

- 5.6 I note that the Commissioner has referred to “undertaking local dispute resolution” and has provided copies of emails with the Appellant prior to the Breach Notice being issued. I note that the Appellant has not referred to the lack of local dispute resolution in its appeal. I therefore determine that there is no failure with regard to Regulation 69.

- 5.7 I note that the Breach Notice was issued pursuant to Regulation 71(1) and is compliant with the requirements 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).

- 5.8 As a preliminary matter, I note the Commissioner’s comment that “*The grounds for the appeal appear unclear as the Appellant acknowledges that a breach has taken place and describes “the circumstances leading to this breach.” (Letter of appeal, page 1). There appears to be no dispute that a breach has taken place*”. Whilst I note this is correct, the Appellant goes on to state that “*Given these factors, I kindly request a reconsideration of the breach notice and the suspension*”. I therefore consider that the Appellant seeks to appeal against the decision of the Commissioner to issue the Breach Notice for its failure to notify the Commissioner that its superintendent pharmacist became the subject of an investigation into their professional conduct by the General Pharmaceutical Council.

- 5.9 In relation to the Appellant’s request for a reconsideration of the suspension, I note the Commissioner’s comment in response that “*The ICB would also like to confirm that no suspension took place as a result of the breach notice being served*”. I have therefore limited my consideration to the issuing of the Breach Notice.

5.10 I note the Breach Notice states that:

“Failure of Everlasting Solution Ltd, which includes the director and superintendent, to notify Suffolk and North East Essex ICB, in writing within 7 days of the matters arising, that [UBN], Superintendent

became the subject of an investigation into their professional conduct by the General Pharmaceutical Council (as required by paragraph 31(1)(i), Schedule 4 of the 2013 regulations)

You are required to not repeat the breach again.”

5.11 The ‘Duty to provide information about fitness matters as they arise’ is found at Schedule 4, paragraph 31(1) which states:

31.—(1) An NHS pharmacist (P) and, where P is a body corporate, every director and superintendent of P must, within 7 days of its occurrence, inform NHS England in writing if they—

...

(i) become the subject of any investigation into their professional conduct by any licensing, regulatory or other body;

...

and must give details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when that investigation or those proceedings took place or are to take place, and any outcome.

5.12 The Breach Notice states that the Appellant had failed to declare to the Commissioner that Miss [UBN], a Superintendent of Everlasting Solutions Ltd, had become the subject of a General Pharmaceutical Council (GPhC) investigation, within 7 days of the matter arising.

5.13 I note that the Commissioner has provided a copy of the PSRC report dated 7 March 2025 and under the heading “background” it states that *“On the 28th October 2024, the Pharmacy and Optometry Team (P&O Team) received a Change of Superintendent notification involving Miss [UBN]. The fitness review was heard at PSRC on 29th January 2025 where it was noted that the GPhC has advised that Miss [N] is currently under investigation and that she had been made aware of the investigation by the GPhC. This was not declared on the Annex 1, submitted by the director Mr [VT]”.*

5.14 I note in its appeal, the Appellant states that *“Upon becoming aware of the situation, we learned that [UN] had already resigned from her role, and we have provided details of the relevant time periods. While we fully respect the decision made by SNEE ICB, the circumstances leading to this breach were beyond our control. Until we were informed by the regulatory body, we were unaware of the seriousness of the investigation”.*

5.15 As highlighted by the Commissioner in its representations, in an email dated 13 February 2025, the Appellant stated that *“We became aware of this matter only this morning, following a telephone call from the General Pharmaceutical Council (GPhC) at 10:14hrs, almost six days after the investigation began. Prior to this notification, we*

had no knowledge of any investigation involving Ms. [N]. However, she has mentioned being involved in a probe that is not reflected in the GPhC records”.

- 5.16 In an email dated 24 February 2025, the Commissioner contacted the GPhC to obtain confirmation of when the Appellant was informed of the investigation. I note the GPhC confirmed that *“I have checked with the Case Officer and they confirm that they spoke to the Director of Everlasting Solutions Ltd, Mr [VT] on 13 February for the first time to enquire about Ms [N]’s employment. However, Mr [T] advised that he had been informed by Ms [N] prior to this which the Case Officer confirmed with her representative before contacting Mr [T]”.*
- 5.17 Following this, the Commissioner contacted the Appellant to ask for confirmation of when Ms N *“mentioned being involved in a probe (not reflected in the GPhC records at the time)”*. The Appellant replied with the following *“Ms. [N] mentioned being involved in a probe around the beginning of January. At that time, there was no Fitness to Practice issue reflected on the GPhC portal, nor did we receive any communication—via call or email—from the GPhC regarding an investigation against her. I received a phone call from the General Pharmaceutical Council on 13th February 2025, by which point she had already resigned from her position as Superintendent Pharmacist at Everlasting Solutions Ltd.”*
- 5.18 In the email to the Commissioner dated 13 February 2025, the Appellant states that by the time it received the phone call from the GPhC on 13 February 2025, *“Ms. N had already submitted her resignation from her role as Superintendent Pharmacist with Everlasting Solutions Ltd. Her immediate resignation was effective as of 7th February 2025, and she is no longer associated with our organization in any capacity”.*
- 5.19 The Appellant states that the phone call it received on 13 February 2025 from the GPhC was *“almost six days after the investigation began”* however I note that the GPhC confirmed to the Commissioner that in an email dated 24 February 2025 that *“they called Ms [N] on 21 November 2024 to inform her of the investigation”*. It is therefore evident that the investigation had commenced or was due to commence before the date outlined by the Appellant and before Miss [UBN] had resigned from Everlasting Solutions Ltd. Additionally as noted above, the Appellant concedes it was notified by Ms N of the investigation *“around the beginning of January”*.
- 5.20 With regard to the Appellant indicating that *“a probe that is not reflected in the GPhC records”*, I am of the view that the trigger for subsequent notification to the Commissioner was the disclosure by Miss [UBN] of the probe, rather than what was visible on the GPhC website. As a result, it is apparent that the Appellant failed to notify the Commissioner within the timescale set out in the Regulations i.e. within 7 days. I note the Appellant states that it was not contacted by the GPhC at the time Miss [UBN] informed it of the investigation however, for the reasons given above, the Appellant should have notified the Commissioner in line with its Terms of Service beforehand.
- 5.21 I have considered whether a breach of paragraph 31(1) is capable of remedy. If the requirement were simply to notify the Commissioner, then it could be capable of remedy by provision of that notification. But the requirement in paragraph 31(1) goes beyond that and requires the information to be provided within a specific timescale i.e. within 7 days. As the relevant timescale has now passed, while the notification can still be provided, it is not possible to remedy the failure to provide the notification within the timescale.
- 5.22 As a result of the comments I make above, I am of the view that:

- 5.22.1 the Appellant did not notify the Commissioner of the investigation by the GPhC concerning its superintendent pharmacist within 7 days of becoming aware of the investigation;
- 5.22.2 such action constitutes a breach of the Appellant's Terms of Service as set out in paragraph 31(1)(i) of Schedule 4 to the Regulations; and
- 5.22.3 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