

OFFICIAL: SENSITIVE

18 December 2025

REF: SHA/26732

**APPEAL AGAINST BATH AND NORTH EAST
SOMERSET, SWINDON AND WILTSHIRE ICB
DECISION REGARDING A BREACH NOTICE AT
SWIFTCARE PHARMACY (FJ169), ST CHADS
SURGERY, GULLOCK TYNING, MIDSOMER
NORTON, BATH, BA3 2UH**

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:

Swiftcare Pharmacy
NHS South West Collaborative Commissioning Hub, on behalf of Bath and North East
Somerset, Swindon and Wiltshire ICB

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1 The Breach Notice

A Breach Notice dated 29 September 2025 was sent to Swiftcare Pharmacy (“the Appellant”) in respect of St Chads Surgery, Gullock Tynning, Midsomer Norton, Bath BA3 2UH:

- 1.1 **“Name of Contractor:** Swiftcare Pharmacy FJ169
- 1.2 **Address of premises:** Swiftcare Pharmacy- St Chads Surgery, Gullock Tynning Midsomer Norton. BA3 2UH (The Contractor)
- 1.3 This is a Breach Notice issued by the **NHS BNSSG [sic] Integrated Care Board (ICB)**, referred to as the Commissioner in this Breach Notice, under regulation 71 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. Issue of this Notice has been considered and approved by the NHS South West Pharmaceutical Services Regulations Committee (“the SW Committee”).
- 1.4 **Nature of the breach**
- 1.5 Contrary to Regulation 18 of The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and in accordance with Schedule 4 Part 4 paragraph 35 (4) of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, the Contractor did not provide a return of the Annual Complaints Report 2024-2025 by the deadline. The Contractor is required under the Terms of Service to engage with this process.
- 1.6 **Statement of reasons**
- 1.7 On **31 March 2025** an email from the Commissioner was sent out to all Pharmacy contractors in the South West region to their pharmacy NHSmail shared mailbox address from england.pharmacysouthwest@nhs.net. Where applicable, Head Offices and Area managers were also copied in.

- 1.8 The email set out the requirements and the deadline date of 30 April 2025. It was also noted that Contractors must still return a NIL response where there have been no complaints.
- 1.9 A further two reminders were sent, by the same means as above, on:
- 1.9.1 **16 April 2025**
- 1.9.2 **30 April 2025 – Final reminder**
- 1.10 There was also a reminder in the NHS South West Collaborative Commissioning Hub Pharmacy Bulletin, which was sent on **29 April 2025** to all contractors. The deadline of 30 April 2025 was reiterated.
- 1.11 Despite the reminders the Contractor failed to return their Annual Complaints Report for 2024-25 to the Commissioner by the given deadline.
- 1.12 A Remedial Notice was then issued to the Contractor on **18/06/2025** using their pharmacy NHSmail shared mailbox address advising them that they are required to provide their Annual Complaints Report for 2024-25 to the Commissioner via england.pharmacysouthwest@nhs.net, by no later than 30 days from the date of the Remedial Notice.
- 1.13 Despite numerous reminders the Contractor failed to return their Annual Complaints Report for 2024-25 to the Commissioner by the deadline given.
- 1.14 **Action Required**
- 1.15 The Contractor is required not to repeat the breach.
- 1.16 **Right to Appeal**
- 1.17 You have 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 to nhsr.appeals@nhs.net or:
- 1.18 Primary Care Appeals
NHS Resolution
8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU
- 1.19 Please note that you can seek advice and support from **Community Pharmacy BNSSG**, who are your statutory representative body, and we would be happy to include them (or any of the other Community Pharmacy Locals who represent you) in meetings with you in the future. If this would be helpful, please advise my colleagues at england.pharmacysouthwest@nhs.net and we will include them in meeting arrangements.”

2 The Appeal

In an email dated 29 September 2025 addressed to NHS Resolution, the Appellant appealed against Bath and North East Somerset, Swindon and Wiltshire ICB's ("the Commissioner") decision. The grounds of appeal are:

- 2.1 "I am writing on behalf of Swiftcare Pharmacy to respectfully appeal regarding the late submission of our annual complaint form.
- 2.2 At the time the form was due, I was experiencing significant personal difficulties as my grandfather was seriously unwell. I am very close to him, and my family commitments during this period understandably affected my ability to meet the deadline. Additionally, during this time staff members left the pharmacy, which placed extra pressure on our operations and further contributed to the delay.
- 2.3 I sincerely apologize [sic] for this oversight and any inconvenience it may have caused. It is normally my responsibility to ensure that such important requirements are completed on time, and I regret that circumstances prevented me from doing so on this occasion.
- 2.4 I kindly ask that you allow us the opportunity to rectify this matter and submit the required documentation without penalty. Please be assured that Swiftcare Pharmacy is committed to meeting all professional obligations, and I have already put measures in place to ensure this does not recur.
- 2.5 Thank you for your understanding and consideration of this appeal."

3 Summary of Representations

This is a summary of representations received on the appeal.

The Commissioner

- 3.1 "Thank you for your email dated 30 September 2025 inviting representation in response to the appeal received against the decision made by the South West Pharmaceutical Services Regulations Committee (the Committee) on behalf of NHS Bath and North East Somerset, Swindon, Wiltshire Integrated Care Board, (the Commissioner) to issue a breach notice to Swiftcare Pharmacy (FJ169) referred to in the breach as the 'Contractor'.
- 3.2 Please can I ask you to treat the attached, as part of the Commissioner's representations on this appeal:
 - 3.2.1 Appendix A - Email of the 31st of March sent to the contractor 'For Action Annual Complaints Report 01 April 2024 - 31 March 2025 Deadline 30 April 2025'
 - 3.2.2 Appendix B - Email of the 16th of April sent to the contractor 'Gentle Reminder for Action Annual Complaints Report 01 April 2024 - 31 March 2025 Deadline 30 April 2025'

- 3.2.3 Appendix C - Email of the 30th of April sent to the contractor Reminder for Action Annual Complaints Report 01 April 2024 - 31 March 2025 Deadline 30 April 2025
- 3.2.4 Appendix D - SW community Pharmacy bulletin sent to all SW pharmacies on the 31st of March 2025
- 3.2.5 Appendix E - SW Community Pharmacy bulletin sent to all SW pharmacies on the 29th of April 2025
- 3.2.6 Appendix F- Copy of the minutes from the May PSRC meeting
- 3.2.7 Appendix G - Annual complaint remedial notice sent the 23rd of June 2025
- 3.2.8 Appendix H - Email of the 14th of July 2025 sent to the contractor 'Gentle reminder Annual Complaints Return-FJ169 Swiftcare Pharmacy'
- 3.2.9 Appendix I- Copy of the minutes from the September PSRC meeting
- 3.2.10 Appendix J- Copy of the Breach notice sent to the contractor
- 3.3 On the 31 March 2025 the Commissioner sent out emails to all pharmacies in the Southwest, to advise that the Annual complaints return was due to be completed by the 30 April 2025 (Appendix A). Clear instructions on what to include within the Annual complaints return were included in the email, which was sent to their designated generic nhs.net email account.
- 3.4 On the 16 April 2025 a reminder email was sent out to all pharmacies in the South West who had not responded, to remind the pharmacies of the deadline and the requirements for sending back the Annual complaints return (Appendix B). The Contractor was included in this reminder email, using their designated generic nhs.net account email.
- 3.5 On the 30 April 2025 a further email was sent out to all pharmacies in the South West who had not responded, to advise the pharmacies that the deadline was the 30 April 2025 (Appendix C). The Contractor was included in this reminder email, using their designated generic nhs.net account email.
- 3.6 On the 31 March 2025, the SW community pharmacy bulletin was sent out to all pharmacies in the South West: under the heading Headline News, information was provided about the Annual complaints return and the deadline for response was included (Appendix D). The Contractor was included in this bulletin, using their designated generic nhs.net account email.
- 3.7 On the 29 April 2025 the SW community pharmacy bulletin was sent out to all pharmacies in the Southwest, under the Headline News, a reminder about the Annual complaints return and the deadline it was due were included (Appendix E). The Contractor was included in this bulletin, using their designated generic nhs.net account email.

- 3.8 On the 15 May 2025, the South West Pharmaceutical Services Regulatory Committee (the Committee) considered the issue of lack of Annual Complaint Report 24/25 response, relating to the above pharmacy. The decision was made by the Committee, in line with the Terms of Service for NHS Pharmacists Schedule 4 Part 4 paragraph 35 (4) of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 to issue a Remedial Notice. (Appendix F)
- 3.9 On the 23 June 2025 the remedial notice was sent to the Contractors designated nhs.net email address, requiring the Contractor to provide Annual Complaints Report 2024-2025, by no later than 30 days from the date of the Remedial Notice. (Appendix G). Within the Remedial notice it stated that if the Contractor failed to comply with the requirements of this Remedial Notice, the Commissioner reserved the right to exercise its powers to take further action. How to appeal the Remedial notice was also included in the email sent (Appendix G).
- 3.10 The Contractor had until 23 July 2025 to respond to the Remedial Notice. No response was received from the Contractor.
- 3.11 On the 8 September 2025, the South West Pharmaceutical Services Regulatory Committee (the Committee) considered the issue of lack of Annual Complaint Report 24/25 response, relating to the above pharmacy. The decision was made by the SW Committee under Regulation 71, in line with your Terms of Service for NHS Pharmacists Schedule 4 Part 4 paragraph 35 (4) of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 to issue the attached Breach Notice. (Appendix I)
- 3.12 On the 29 September 2025, the Breach Notice was sent to the designated nhs.net email address of the Contractor (Appendix J)
- 3.13 The Contractor has failed to provide a return of the Annual Complaints Report 2024-2025, as required by regulation 18 of The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and in accordance with Schedule 4 Part 4 paragraph 34 of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. The Contractor is required under their terms of service to engage with this process.
- 3.14 Within the appeal letter, the Contractor advises he was experiencing significant personal difficulties due to a relative's illness, and this impacted on his ability to meet the deadline provided to complete the Annual complaints return. While we sympathise with the Contractors personal circumstances, the deadline to return was the 30 April 2025 and the Commissioner sent reminders of this deadline on multiple occasions. A Remedial Notice was then issued, in which the Contractor was given a further 30 days to return the Annual complaints return. A follow-up email was sent to the Contractor to remind them of the deadline stated in the Remedial Notice.

- 3.15 It should also be noted that to date we have received no correspondence or contact from the contractor regarding the Annual complaint return, nor have we received the return.
- 3.16 The Contractor also states in their appeal that they have had members of staff leave the pharmacy: while we appreciate that this could cause additional workload pressures, it is important that the Contractor maintains good governance arrangements and is able to meet its Terms of Service, including making arrangements for completion of the Annual complaint return.
- 3.17 The Commissioner appreciates the pressures facing community pharmacies, and we sympathise with the Contractor, however, it is of the view that the Contractor had numerous opportunities to provide the Annual complaints return. The Commissioner maintains the decision to issue the breach notice to the Contractor was justified and necessary and requests that the appeal be rejected.”

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 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).

5.6 The Breach Notice states:

5.6.1 *“Contrary to Regulation 18 of The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and in accordance with Schedule 4 Part 4 paragraph 35 (4) of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, the Contractor did not provide a return of the Annual Complaints Report 2024-2025 by the deadline. The Contractor is required under the Terms of Service to engage with this process.”*

5.7 The Breach Notice goes on to detail the process by which the Commissioner notified the Appellant of the requirements and deadline date for actions to be completed. I note that an initial email was sent out to all pharmacy contractors on 31 March 2025 which set out the requirements for the return of the Annual Complaints Report for 2024-2025 and the deadline date of 30 April 2025. Reminders were sent on 16 April and 30 April 2025. Reminders were also provided in the Commissioner’s Pharmacy Bulletins which were provided to all contractors on 31 March and 29 April 2025. I note that the Commissioner has provided copies of these documents with its representations.

5.8 I note that following the deadline for submission of the Annual Complaints Report, the Commissioner issued a Remedial Notice dated 23 June 2025 which stated:

5.8.1 ***“Nature of the breach***

The above name Contractor has failed to provide a return of the Annual Complaints Report 2024-2025, as required by regulation 18 of The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and in accordance with Schedule 4 Part 4 paragraph 35 (4) of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. The Contractor is required under their terms of service to engage with this process.

...

Steps you are required to take to remedy the breach

You are required to provide your Annual Complaints Report 2024-2025 relating to the above Contractor, to the Commissioner via england.pharmacysouthwest@nhs.net , by no later than 30 days from the date of this Remedial Notice.”

5.9 The Appellant did not respond to the Remedial Notice and therefore the Commissioner proceeded to issue the Breach Notice on 29 September 2025.

5.10 I am of the view that the Appellant had the opportunity to enter into local dispute resolution with the Commissioner after the issuing of the Remedial Notice but did not do so. There is no dispute raised by either party that the local dispute resolution process has not been exhausted. Given that both parties do not

dispute that local dispute resolution has been exhausted, I am content that I can deal with this matter.

5.11 Schedule 4, Part 4, paragraph 35(4) of the Regulations states:

35(4) P must, at the request of NHS England, send to NHS England by means of an electronic communication of the type specified in the request any information to which a person authorised in writing by NHS England would have access during an inspection of P's pharmacy premises pursuant to sub-paragraph (1), if—

(a) P has that information in a form which means it may be sent by that form of electronic communication; or

(b) it is reasonable for NHS England to request that P convert that information into a form which means that it may be sent by that form of electronic communication (and NHS England does so request).

5.12 I note that the Appellant seeks to appeal against the issuing of the Breach Notice explaining that they were under pressure at the time, due to personal reasons and staff members leaving the pharmacy. I note there is no dispute that the Annual Complaints Report was not submitted either by the deadline of 30 April 2025, or by the subsequent deadline of 23 July 2025 as given in the Remedial Notice. I note further that the Appellant has not sought to dispute that the various communications as noted above were sent by the Commissioner, nor received, and I consider that sufficient notice of the requirements were provided.

5.13 Whilst I am sympathetic regarding the pressures faced by the Appellant, I am of the view that the Appellant has a responsibility to comply with the requirement to submit the Annual Complaints Report when requested to do so by the Commissioner, as set out in the Regulations.

5.14 As a result of the comments I make above, I am of the view that:

5.14.1 the Appellant did not return the Annual Complaints Report by the required deadline;

5.14.2 such action constitutes a breach of the Appellant's terms of service as set out in paragraph 35(5) of Schedule 4 to the Regulations; and

5.14.3 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