

OFFICIAL: SENSITIVE

18 December 2025

REF: SHA/26733

**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

REF: SHA/26733

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

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

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:** LP SD One Hundred Twenty-Six Limited t/a Swiftcare Pharmacy (FJ169)
- 1.2 **Address of premises:** St Chads Surgery, Gullock Tynning Midsomer Norton BA3 2UH (The Contractor)
- 1.3 This is a Breach Notice issued by the **NHS BSW 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 complete the DSP Toolkit 2024-2025. The Contractor is required under the Terms of Service to engage with this process.
- 1.6 **Statement of reasons**
- 1.7 The NHS Digital Operations and Service Management team email all administrators when the yearly DSPT assessment is released and ready for completing.

- 1.8 They also email again at the beginning of the year to remind admins of the June deadline for completion.
- 1.9 All NHS organisations receive the same number of notifications from The NHS Digital Operations and Service Management team.
- 1.10 The deadline for completing the DSP Toolkit was **midnight 30 June 2025**.
- 1.11 A further two reminders were sent by the SWCCH, by the same means as above, on:
- 1.11.1 03 July 2025**
- 1.11.2 15 July 2025**
- 1.12 There were also reminders in the NHS South West Collaborative Commissioning Hub Pharmacy Bulletin where the deadline of 30 June 2025 was reiterated. Bulletins including the reminders were sent from england.pharmacysouthwest@nhs.net to the pharmacy's designated NHSmail account on the following dates:
- 1.12.1 28 May 2025**
- 1.12.2 27 June 2025**
- 1.13 Despite numerous reminders the Contractor failed to complete their DSP Toolkit for 2024-25 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 BSW**, 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 request your consideration regarding the late submission of our DSP Toolkit.
- 2.2 Unfortunately, when the submission was due, I faced challenging personal circumstances. My grandfather was seriously unwell, and as we are very close, I had significant family commitments during this difficult time. Alongside this, members of staff left the pharmacy, which created additional operational pressures and made it harder to complete the submission on time.
- 2.3 I deeply regret this delay and apologize for any inconvenience it may have caused. I fully recognize that it is my responsibility to ensure such requirements are met promptly, and I am sorry that unforeseen circumstances prevented me from doing so on this occasion.
- 2.4 I respectfully ask for the opportunity to resolve this matter by submitting the necessary documentation now. Please be assured that Swiftcare Pharmacy remains committed to meeting all compliance obligations, and I have taken steps to avoid a recurrence of this situation in the future.
- 2.5 Thank you very much for your understanding and for considering 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 following emails and attachments, as part of Commissioner representations on this appeal:
 - 3.2.1 Appendix A - Email of the 3rd of July sent to the contractor for urgent action: Non completion of DSP Toolkit
 - 3.2.2 Appendix B - Email of the 29th of July sent to the contractor for urgent action: Non completion of DSP Toolkit

- 3.2.3 Appendix C - SW Community Pharmacy bulletin sent to all SW pharmacies on the 27th of June 2025
- 3.2.4 Appendix D - Copy of the minutes from the September PSRC meeting
- 3.2.5 Appendix E - Copy of the Breach Notice sent to the contractor
- 3.3 The DSP Toolkit portal is available every year in the summer. The 2024/25 DSP Toolkit Portal was open for completion from July 2024 to midnight 30 June 2025.
- 3.4 The NHS Digital Operations and Service Management team email all administrators when the yearly DSPT assessment is released and ready for completing. They also email again at the beginning of the year to remind administrators of the June deadline for completion. All NHS organisations receive the same number of notifications from the NHS Digital Operations and Service Management team.
- 3.5 The deadline for completing the DSP Toolkit was midnight 30 June 2025.
- 3.6 A further two reminders were sent by the Commissioner, using the Contractors designated generic email address, on:
 - 3.6.1 03rd July 2025 (Appendix A)
 - 3.6.2 29th July 2025 (Appendix B)
- 3.7 There was also a reminder in the Commissioners Community Pharmacy Bulletin, where the deadline of 30 June 2025 was reiterated. This bulletin was shared with all contractors, using their designated generic email address, on 27 June 2025. (Appendix C).
- 3.8 Contrary to Schedule 4 Part 4 paragraph 28(2)(f)(ii) of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, the Contractor did not complete and submit the required version of the DSP Toolkit. The Contractor is required under their terms of service to engage with this process. The approved particulars specify the assessment must be completed and submitted by 30 June each year.
- 3.9 On 08 September 2025, the South West Pharmaceutical Services Regulatory Committee (the Committee) considered the issue of lack of response to the Annual DSP Toolkit, relating to the above Contractor. The decision was made by the SW Committee to issue the attached Breach Notice. (Appendix D)
- 3.10 Within the appeal letter, the contractor advises that 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 and publish the correct version of the DSP Toolkit.
- 3.11 While we sympathise with the Contractors personal circumstances, it should be noted that though the national deadline for submission and publication of the DSP Toolkit was the 30 June, the Commissioner wrote to the Contractor on

03 July 2025 offering a revised deadline of 10 July 2025 and the email sent on 29 July 2025 requested completion of the DSP Toolkit by 01 August 2025 (Appendix A and B). No correspondence from the contractor was received.

- 3.12 On 29 September 2025, three months after the DSP Toolkit should have been completed and published the Contractor was sent a Breach notice as the DSP Toolkit had not been completed and published. (Appendix E)
- 3.13 On 30 September 2025 NHS South West Collaborative Commissioning Hub received the appeal notice from NHSR, advising the contractor wished to appeal against the issue of the Breach.
- 3.14 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 completion of the DSP Toolkit is a material part of this, safeguarding both the Contractor and their patients. As Community Pharmacy continues to expand, ensuring information governance is even more important.
- 3.15 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 complete the DSP Toolkit. 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 complete the DSP Toolkit 2024-2025. 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, which I note was 30 June 2025. The Commissioner states *"The NHS Digital Operations and Service Management team email all administrators when the yearly DSPT assessment is released and ready for completing"* and further *"They also email again at the beginning of the year to remind admins of the June deadline for completion."* The Breach Notice states that reminders were sent by email on 3 July and 15 July 2025, although I note that the Commissioner's representations indicate that the relevant dates were 3 July and 29 July 2025, with copies of those emails being provided. Reminders were also provided in the Commissioner's Pharmacy Bulletins which were provided to all contractors on 28 May and 27 June 2025.
- 5.8 The Appellant did not respond to the reminders and therefore the Commissioner proceeded to issue the Breach Notice on 29 September 2025.
- 5.9 I am of the view that the Appellant had the opportunity to enter into local dispute resolution with the Commissioner 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.
- 5.10 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).*

- 5.11 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 DSP Toolkit was not submitted by the deadline of 30 June 2025, or that the Appellant did not respond to the two reminders issued by the Commissioner in July 2025, which gave a further opportunity to submit the DSP Toolkit. Further, 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.
- 5.12 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 DSP Toolkit when requested to do so by the Commissioner, as set out in the Regulations.
- 5.13 As a result of the comments I make above, I am of the view that:
- 5.13.1 the Appellant did not return the DSP Toolkit by the required deadline;
- 5.13.2 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
- 5.13.3 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