

23 December 2025

REF: SHA/ 26754

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

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

**APPEAL AGAINST GREATER MANCHESTER ICB
DECISION TO REFUSE AN APPLICATION BY
FUTUREPHARM LTD FOR INCLUSION IN THE
PHARMACEUTICAL LIST AT 164 ROCHDALE
ROAD, OLDHAM, OL2 6QF UNDER REGULATION
25**

1 Outcome

- 1.1 The Pharmacy Appeals Committee (“Committee”), appointed by NHS Resolution, quashes the decision of the Commissioner and redetermines the application.
- 1.2 The Committee determined that the application should be granted.

A copy of this decision is being sent to:
Rushport Advisory LLP on behalf of FuturePharm Ltd
PCSE on behalf of Greater Manchester ICB

REF: SHA/ 26754

**APPEAL AGAINST GREATER MANCHESTER ICB
DECISION TO REFUSE AN APPLICATION BY
FUTUREPHARM LTD FOR INCLUSION IN THE
PHARMACEUTICAL LIST AT 164 ROCHDALE
ROAD, OLDHAM, OL2 6QF UNDER REGULATION
25**

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

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

1 The Application

By application dated 11 June 2025, Rushport Advisory LLP on behalf of FuturePharm Ltd ("the Applicant") applied to Greater Manchester ICB ("the Commissioner") for inclusion in the pharmaceutical list at 164 Rochdale Road, Oldham, OL2 6QF under Regulation 25. In support of the application it was stated:

- 1.1 In response to "If you are undertaking to provide appliances, specify the appliances that you undertake to provide (or write 'none' if it is intended that the pharmacy will not provide appliances)" the Applicant stated
 - 1.1.1 "Drug Tariff part IX"
 - 1.1.2 *EXCEPT items that require measuring or fitting."
- 1.2 In response to why the application should not be refused pursuant to Regulation 31 the Applicant stated:
 - 1.2.1 "Not applicable as no other pharmacy in same or adjacent premises".
- 1.3 In response to why the application should not be refused pursuant to Regulation 25(2)(a) the Applicant stated:
 - 1.3.1 "Application is not on the same site or in the same building as the premises of a provider of primary medical services with a patient list."

Further Information in Relation to Provision of Essential Services in Accordance With the Regulatory Requirements for Distance Selling Pharmacies

- 1.4 Please explain how the pharmacy procedures used within the premises will secure:
 - (a) the uninterrupted provision of essential services during the opening hours of the premises, to persons anywhere in England who request those services, and
 - (b) the safe and effective provision of essential services without face to face contact between any person receiving the services, whether on their own or someone else's behalf, and the applicant or the applicant's staff.
- 1.4.1 "SEE ATTACHED INFORMATION".

1.4.2 [A copy of the Applicant's SOPs were enclosed].

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 14 October 2025 states:

- 2.1 "Greater Manchester ICB has considered the above application, and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.
- 2.2 You have a right of appeal to the Secretary of State against Greater Manchester ICB's decision. Should you choose to appeal then you should either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:
- 2.3 Primary Care Appeals
NHS Resolution
8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU."

Decision report

[Any reference to 'Committee' in this section is not to be confused with the Pharmacy Appeals Committee of NHS Resolution]

- 2.4 "**CAS reference number** - CAS-370139-N8Y8V2
- 2.5 **Name of applicant** - FuturePharm Ltd
- 2.6 **Fitness to practise** - Deemed suitable for inclusion in the Oldham HWB area Pharmaceutical List by PSRC 29/08/2025
- 2.7 **Address of proposed premises** - 164 Rochdale Road, Oldham, OL2 6QF
- 2.8 **Status of location** - Non-controlled locality.
- 2.9 **Relevant regulations and guidance** –
 - 2.9.1 Regulations 25 – distance selling premises.
 - 2.9.2 Regulation 31 – refusal: same or adjacent premises.
 - 2.9.3 Regulation 66 – conditions relating to providing directed services. (The PSRC noted that Regulation 66 is not applicable in this case, as the applicant is not undertaking to provide directed services)
 - 2.9.4 DHSC market entry guidance chapter 11.

- 2.10 **Regulation 31 considerations**
- 2.11 The PSRC noted the proposed location of the distance selling premises (DSP) is 164 Rochdale Road, Oldham, OL2 6QF.
- 2.12 Proposed location is shown below (source: Google Maps): [map provided]
- 2.13 The next nearest pharmacy to the proposed location is 0.2 mile away (source: the NHS Site) – Well Pharmacy, 25 Park Street, Royton, Oldham, OL2 6QN (5-minute walk): [map provided]
- 2.14 Based on all available information, the PSRC was satisfied that the application should not be refused under Regulation 31, as there is no other provider of pharmaceutical services either in the same premises or adjacent premises to the proposed location.
- 2.15 **Regulation 25 considerations**
- 2.16 **Are the premises listed in the application on the same site or in the same building as a provider of primary medical services with a patient list? (Regulation 25(2)(a))**
- 2.17 Based on all available information, the PSRC was satisfied that the proposed location is not on the same site or in the same building as a provider of primary medical services with a patient list.
- 2.18 **Will the applicant provide uninterrupted provision of essential services, during the opening hours of the premises, to persons anywhere in England who request those services? (Regulation 25(2)(b)(i)); and**
- 2.19 **Will the applicant ensure the safe and effective provision of essential services without face-to-face contact between any person receiving the services, whether on their own or on someone else's behalf, and the applicant or the applicant's staff? (Regulation 25(2)(b)(ii))**
- 2.20 The applicant has declared it will provide:
- 2.20.1 core/overall opening hours of 09:00 –13:00, 13:30-17:30 Monday to Friday;
- 2.20.2 NMS
- 2.21 The PSRC noted that the applicant has provided information with regards to Regulation 25. The applicant has submitted:
- 2.21.1 SOPs, 182 pages
- 2.21.2 NMS SOP, 8 pages
- 2.22 The PSRC noted that the applicant has not submitted a floor plan to demonstrate how he intends to carry out his day-to day provision of services without face-to face interaction.

2.22.1 *“Floor plan showing consultation area*

2.22.2 *Floor plan will be submitted once shop fitters have agreed the layout. The pharmacy will include a private area where phone calls and video consultations can take place with patients without being overheard. Patients will not have access to the premises as it will be entirely self-contained with a controlled entry system.”*

2.23 In light of this, PSRC noted that the information provided by the applicant neither specified sufficiently nor contained adequate assurances relating to the safe and effective provision of services without face-to-face contact.

2.24 There was no site-specific methodology in terms of satisfying the required regulations.

2.25 Therefore, the PSRC was not adequately assured that its procedures would enable the DSP to meet the requirements of Regulation 25(2), in addition to the ongoing requirements set out under Regulation 64 – which are:

2.25.1 that the applicant does not offer to provide pharmaceutical services, other than directed services, to persons who are present at (which includes in the vicinity of) the listed chemist premises;

2.25.2 that the means by which the applicant provides pharmaceutical services, other than directed services, must be such that any person receiving those services does so otherwise than at the listed chemist premises;

2.25.3 that the DSP must not be on the same site or in the same building as the premises of a provider of primary medical services with a patient list;

2.25.4 that the applicant secures the uninterrupted provision of essential services, during the opening hours of the premises, to persons anywhere in England who request those services,

2.25.5 that the applicant ensures the safe and effective provision of essential services without face-to-face contact between any person receiving the services, whether on their own or on someone else's behalf, and the applicant or applicant's staff; and

2.25.6 that nothing in the applicant's practice leaflet, publicity material in respect of the listed DSP, in material published on behalf of the applicant publicising services provided at or from the listed DSP or in any communication (written or oral) from the applicant or applicant's staff to any person seeking the provision of essential services from the applicant must represent, either expressly or impliedly, that the essential services provided at or from the premises are only available to persons in particular areas of England, or that the applicant is likely to refuse, for reasons other than those provided for in its terms of service, to provide drugs or appliances ordered on prescription forms or repeatable prescription forms which are presented by particular

categories of patients (for example, because the availability of essential services from applicant is limited to other categories of patients).

2.26 The applicant is reminded that the commissioner (NHS GM) may not vary or remove any of the above conditions.

2.27 **The following interested parties within a 2km radius of the proposed premises location were notified of the application:**

WELL	25 PARK STREET	ROYTON	OL2 6QN
Market Square Pharmacy	28 MARKET SQUARE	ROYTON	OL2 5QD
ROYTON PHARMACY	38-40 MARKET SQUARE	ROYTON	OL2 5QD
Boots	6 ELK MILL CENTRAL	RETAIL PARK	OL2 5HX
Gardeners Chemist	285 ROCHDALE ROAD, OLDHAM		OL1 2HG
Well	4 HIGH SREET, SHAW, OLDHAM		OL2 8RQ
WOLSTENHOLME & MCDIARMID LTD	67 MARKET STREET, SHAW, OLDHAM		OL2 8NP

2.28 **Also informed were the following parties**

2.28.1 CPGM

2.28.2 West Pennine Local Medical Committee

2.28.3 Oldham HWB

2.28.4 Healthwatch Oldham

2.29 **Representations received from interested parties**

2.30 **CPGM comment:**

2.31 *"Thank you for your letter dated 4th July 2025 regarding the above application, and for the opportunity to submit representations.*

2.32 *While the route for new Distance Selling Pharmacy (DSP) applications has now closed under the updated regulatory framework, we acknowledge that this application was submitted prior to the deadline and is therefore eligible for consideration.*

2.33 *The 2023 report by the Company Chemists' Association (CCA) revealed that over 80% of DSPs primarily serve their local populations, in direct conflict with the requirement to provide a comprehensive, national service. Given the continued expansion of DSPs since that report, the extent of this issue is likely to have increased.*

2.34 *If this application is approved, it is essential that NHS Greater Manchester implements rigorous monitoring processes to ensure the applicant fully complies with all contractual obligations, particularly in delivering a national service and the appropriate provision of both core and supplementary hours.*

- 2.35 *Following a detailed review by the Applications Subgroup of Community Pharmacy Greater Manchester (CPGM), we are of the view that the NHSCB must ensure that the applicant has clearly demonstrated compliance with Regulation 25(2) of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. Specifically, this includes:*
- 2.35.1 *Ensuring the uninterrupted provision of essential services during opening hours to anyone in England who requests them. We are especially concerned about whether suitable arrangements are in place for the delivery of Controlled Drugs (CDs) and refrigerated items at all times, as well as the collection of waste medicines from patients.*
- 2.35.2 *Guaranteeing the safe and effective delivery of essential and advanced services without any face-to-face contact between service users (or their representatives) and the pharmacy team.*
- 2.36 *CPGM would welcome continued communication on the progress of this application and request that we are kept informed of any developments”.*
- 2.37 **Boots pharmacy comment:**
- 2.38 ***Re: Application for inclusion in a pharmaceutical list at 164 Rochdale Rd, Oldham, OL2 6QF in respect of distance selling premises by FuturePharm Ltd.***
- 2.39 *Thank you for your letter dated 4th July 2025 informing us of the above application submitted under the NHS (Pharmaceutical Services) Regulations 2013 and inviting us to make representations.*
- 2.40 *Boots UK Ltd would like to respectfully request that members of the deciding committee are satisfied that this application fully meets the criteria set out in Regulation 25 and the conditions set out in Regulation 64 when determining this application.*
- 2.41 *We would be most grateful if you could notify us of the decision of the ICB in due course.*
- 2.42 **Well pharmacy comment:**
- 2.43 ***Application for inclusion in a pharmaceutical list at 164 Rochdale Rd, Oldham, OL2 6QF in respect of distance selling premises by FuturePharm Ltd.***
- 2.44 *Thank you for informing Well of the above application and for inviting written representations. We are willing to attend an oral hearing if the Area Team deem it necessary to hold one.*
- 2.45 *The ICB must be assured that this application fully satisfies Regulation 25 and Regulation 64 of the NHS (Pharmaceutical Services) Regulations 2013 before it should be granted.*
- 2.46 *The ICB should have regard to regulation 25(2) which states that the NHSCB [sic] must refuse the application unless it is satisfied that the procedures of the*

proposed pharmacy premises will allow for the uninterrupted provision of essential services during the opening hours stated on the application form from anywhere in England. Furthermore, the safe and effective provision of essential services must be assured without face-to-face contact with the patient or the patient's representative.

- 2.47 *We'll respectfully draw the ICB's attention to the fact that this application should not be approved automatically. To approve an application under the "distance selling premises" exemption, the application must wholly satisfy the Regulations rather than partially satisfy them.*
- 2.48 **Representations received outside the 45 day notification period: None**
- 2.49 **Representations received from circulation of first representations**
- 2.50 Comment by the applicant's representative:
- 2.51 ***Re: Application for inclusion in a pharmaceutical list at 164 Rochdale Road, Oldham, OL2 6QF in respect of distance selling premises by FuturePharm Ltd***
- 2.52 *Thank you for your letter of 19 August 2025. I act for FuturePharm Ltd in the above application and have been instructed by my client to submit the following reply to the consultation comments received.*
- 2.53 *Each interested party asks the ICB applies the correct legal test when determining the application. In addition, the interested parties ask the ICB to be satisfied that proper procedures are in place.*
- 2.54 *As the ICB will be aware, the relevant Regulations were amended on 23 June 2025 and the amendment requires my client to demonstrate that all pharmaceutical services that they propose to provide will be provided without face to face contact at the premises and in a safe and effective way. Previously the requirement only extended to essential services. As my client is also applying to provide NMS I have added this additional SOP for the ICB's attention.*
- 2.55 *The information already provided demonstrates how the legal test will be met in full and the application should therefore be approved.*
- 2.56 *We look forward to hearing from you in due course.*
- 2.57 The PSRC reviewed the representations and was not satisfied that it meets all the requirements of Regulation 25(2)(b), in addition to the ongoing requirements set out under Regulation 64.
- 2.58 The PSRC determined the application does not meet the requirements of **Regulation 25(2)(b)(i) and Regulation 25(2)(b)(ii).**
- 2.59 The PSRC also considered the impact of decision on those with protected characteristics under the Equalities Act 2010, in accordance with NHS England/ICB's Public Sector Equality Duty and its duties on health inequality.

- 2.60 It was noted that from 01/01/2021 for all face-to-face community pharmacies (and 01/04/2021 for all distance selling premises), the system of clinical governance within the Terms of Service was expanded to include the promotion of healthy living. The Healthy Living Pharmacy (HLP) framework is aimed at achieving consistent provision of a broad range of health promotion interventions through community pharmacies to meet local need, improving the health and wellbeing of the local population and helping to reduce health inequalities. NHS Greater Manchester is committed to support its community pharmacies in achieving and maintaining compliance with this framework.
- 2.61 **Decision** - Based on all available information, the PSRC **refused** the application, as it concluded that the application did not meet the requirements of **Regulation 25(2)(b)(i) and Regulation 25(2)(b)(ii)**.
- 2.62 Appeal rights are awarded to the applicant.
- 2.63 The Pharmaceutical Services Regulations Committee (PSRC) makes decisions on applications made under the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.
- 2.64 The above decision does not, at this point, constitute a contractual change. However, should the applicant commence pharmaceutical services following this grant, its inclusion in the Pharmaceutical List as a new contractor would constitute a contractual change.
- 2.65 Under NHS Greater Manchester governance this determination by the PSRC is to be authorised for and on behalf of Greater Manchester Integrated Care by:
- 2.65.1 [BS], Director of Primary Care NHS Greater Manchester."

3 The Appeal

In a letter received by NHS Resolution on 22 October 2025, the Applicant, through its representative, appealed against the Commissioner's decision. The grounds of appeal are:

- 3.1 "I act for FuturePharm Limited and have been instructed by my client to submit this appeal against the attached decision of the Commissioner to refuse the above application.
- 3.2 As the Committee will note, the Commissioner's only reason for refusing the application appears to be the lack of a floor plan.
- 3.3 It is commonplace for Applicant's to not be able to provide a floor plan during an application process and the Regulations do not require a floorplan to be provided as part of an application.
- 3.4 However, my client confirmed as part of their application (question 4) that "*The pharmacy will include a private area where phone calls and video consultations can take place with patients without being overheard. Patients will not have access to the premises as it will be entirely self-contained with a controlled entry system.*"

- 3.5 Since my client submitted their application they have prepared a floor plan and for the sake of completeness it is attached along with this appeal.
- 3.6 In addition, my client has instructed me to submit the attached SOPs that have been approved by my client for use at the proposed pharmacy and we trust that these provide the Committee with sufficient detail to allow the appeal. These SOPs include a number of small changes compared to the SOPs that my client submitted with their original application and the previous version of the SOPs should now be disregarded.
- 3.7 We look forward to hearing from you in due course.”
- 3.8 [Enclosures provided]

4 **Summary of Representations**

In addition to representations being sought on the appeal, representations were also sought from the Applicant on the amendments to Regulation 25 as the Commissioner considered the application against the previous regulatory test. No representations were received from any party.

5 **Consideration**

- 5.1 The Pharmacy Appeals Committee (“Committee”) appointed by NHS Resolution, had before it the papers considered by the Commissioner.
- 5.2 It also had before it the responses to NHS Resolution’s own statutory consultations.
- 5.3 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.
- 5.4 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”).

Regulation 31

- 5.5 The Committee first considered Regulation 31 of the Regulations which states:

(1) A routine or excepted application, other than a consolidation application, must be refused where paragraph (2) applies.

(2) This paragraph applies where -

(a) a person on the pharmaceutical list (which may or may not be the applicant) is providing or has undertaken to provide pharmaceutical services (“the existing services”) at or from -

(i) the premises to which the application relates, or

(ii) adjacent premises; and

(b) NHS England is satisfied that it is reasonable to treat the services that the applicant proposes to provide as part of the same service as the existing services (and so the premises to which the application relates and the existing listed chemist premises should be treated as the same site).

- 5.6 The Committee noted that in response to the question in the application form on this point, the Applicant stated “*Not applicable as no other pharmacy in same or adjacent premises*”. The Commissioner in its decision letter stated that “*the PSRC was satisfied that the application should not be refused under Regulation 31, as there is no other provider of pharmaceutical services either in the same premises or adjacent premises to the proposed location*”. The Committee noted this had not been disputed by any party.
- 5.7 The Committee therefore determined that it was not required to refuse the application under the provisions of Regulation 31.

Regulation 25

- 5.8 The Committee had regard to Regulation 25 of the Regulations which reads as follows:

“(1) Section 129(2A) and (2B) of the 2006 Act (regulations as to pharmaceutical services) does not apply to an application—

- (a) for inclusion in a pharmaceutical list by a person not already included; or*
- (b) by a person already included in a pharmaceutical list for inclusion in that list in respect of premises other than those already listed in relation to that person,*

in respect of pharmacy premises that are distance selling premises.

(2) NHS England must refuse an application to which paragraph (1) applies—

- (a) if the premises in respect of which the application is made are on the same site or in the same building as the premises of a provider of primary medical services with a patient list; and*
- (b) unless NHS England is satisfied that the pharmacy procedures for the pharmacy premises are likely to secure—*
 - (i) the uninterrupted provision of essential services, during the opening hours of the premises, to persons anywhere in England who request those services, and*
 - (ii) the safe and effective provision of pharmaceutical services without face to face contact at the pharmacy premises between any person receiving the*

services, whether on their own or on someone else's behalf, and the applicant or the applicant's staff."

- 5.9 The Committee also had regard to the provisions of Schedule 2 to the Regulations shown below:

Additional information to be included with excepted applications

8. *If the applicant (A) is making an excepted application, A must include in that application details that explain—*

- (a) *A's belief that the application satisfies the criteria included in one of the regulations in Part 4 which need to be satisfied if section 129(2A) and (2B) of the 2006 Act (regulations as to pharmaceutical services) are not to apply in relation to that application; and*
- (b) *if the regulation includes reasons for which the application must be refused, why the application should not be refused for those reasons.*

Nature of details to be supplied

10. *Where, pursuant to this Part, a person is required to provide details, that obligation is only discharged if the information or documentation provided is sufficient to satisfy NHS England in receipt of it, with good cause, that no relevant information or documentation is missing, having regard to the uses that NHS England may need to make of the information or documentation when carrying out its functions.*

Regulation 25(1)

- 5.10 In relation to Regulation 25(1), the Applicant is applying for inclusion in the relevant pharmaceutical list, as a person not already included in a pharmaceutical list, and paragraph (1)(a) therefore operates to disapply the specified provisions of section 129 of the National Health Service Act 2006, provided that paragraph (2) does not require the application to be refused.

Regulation 25(2)(a)

- 5.11 As far as Regulation 25(2)(a) is concerned, the Committee had regard to the application form in which the Applicant states "*Application is not on the same site or in the same building as the premises of a provider of primary medical services with a patient list*". The Commissioner, in its decision report, stated that "*the PSRC was satisfied that the proposed location is not on the same site or in the same building as a provider of primary medical services with a patient list*". The Committee noted that this had not been disputed and that it had not been provided with any information to persuade it otherwise. The Committee was therefore satisfied that the proposed premises were not on the same site as, or in the same building as the premises of a provider of primary medical services with a patient list.

Regulation 25(2)(b)

- 5.12 As far as Regulation 25(2)(b) is concerned, the Committee considered the information which had been provided by the Applicant in relation to its procedures for the provision of essential services and pharmaceutical services, including its Standard Operating Procedures (SOPs) that it intends to use at the proposed pharmacy premises.
- 5.13 The Regulations require the Committee to be satisfied as to a number of matters, including that essential services will be provided on an uninterrupted basis, across England, and that pharmaceutical services will be provided in a safe and effective way without face to face contact.
- 5.14 Paragraph 8 of Schedule 2 requires an applicant to provide details in relation to an application, and paragraph 10 of Schedule 2 indicates that the obligation is only discharged if the information or documentation provided is sufficient to satisfy the Commissioner in receipt of it, with good cause, that no relevant information or documentation is missing, having regard to the uses that the Commissioner may need to make of the information or documentation when carrying out its functions.
- 5.15 The Committee has asked itself whether it has sufficient information and documentation which would address the criteria in Regulation 25(2)(b). If the Committee is to be satisfied of the matters in that paragraph, the Committee must be provided with evidence to demonstrate these matters. In this case, that evidence put forward has taken the form of the original application and the updated SOPs provided on appeal, which the Applicant has prepared or commissioned.
- 5.16 It is not for the Committee to 'approve' or 'disapprove' of these SOPs (as they may contain matters not relevant to the Committee's consideration, and there are many ways an applicant can choose to organise itself in order to comply with the various requirements of the Regulations) and the Committee has not sought to do so. The Committee has sought evidence within the SOPs and application in order to satisfy itself that it is appropriate to grant the application, the absence of which would require it to reject it.
- 5.17 The Committee considered how the Applicant would provide essential services without interruption and noted the information in the Applicant's SOPs under the following headings:
- 5.18 SOP 1: "Introduction and Background to SOPs"

5.18.1 "1.3 Overriding Provisions Applicable to All SOPs

The uninterrupted provision of pharmaceutical services, during the opening hours of the premises, to persons anywhere in England who request those services.

The safe and effective provision of pharmaceutical services without face-to-face contact between any person receiving the services, whether on their own or on someone else's behalf, and the owner of this pharmacy or any member of staff either on or in the vicinity of the premises."

5.19 SOP 34: "The Responsible Pharmacist"

5.19.1 "34.9 Absence of the RP"

As a Distance Selling pharmacy, we must provide uninterrupted service throughout the opening hours of the pharmacy. Whilst the GPhC permits the absence of the RP from the pharmacy in particular situations, the NHS Terms of Service still require a pharmacist to be present so that services are not interrupted.

If, for any reason, the RP wishes to leave the premises or wishes to take a break then the second pharmacist must sign in as the RP and arrangements must be made for this prior to one RP leaving the premises and another RP signing in."

5.20 With regard to services being available to persons anywhere in England, the Committee noted the information in the Applicant's SOPs under the following headings:

5.21 SOP 1: "Introduction and Background to SOPs"

5.21.1 "1.3 Overriding Provisions Applicable to All SOPs"

In order to comply with our terms of service, this pharmacy will provide...to persons anywhere in England who request those services."

5.22 SOP 3: "Procedures for NHS Pharmaceutical Services"

5.22.1 *"NHS Pharmaceutical Services will be provided to any patient living in England who requests such services, this is made clear on the website and in the Practice leaflet. Patients who wish to send paper prescriptions to the pharmacy by post should be sent stamped addressed envelopes to enable them to do so".*

5.23 The Committee considered how the Applicant would provide pharmaceutical services without face to face contact and noted the comments from the Commissioner in its decision report on this point. The Commissioner was not satisfied that the Applicant would provide pharmaceutical services without face to face as it had not provided a copy of its floor plan with its application. As commented on by the Applicant in its appeal, the Committee was mindful that there is no requirement in the Regulations for Applicants to submit floor plans with their applications.

5.24 The Committee noted the information in the Applicant's SOPs under the following headings:

5.25 SOP 1: "Introduction and Background to SOPs"

5.25.1 "1.3 Overriding Provisions Applicable to All SOPs"

In order to comply with our terms of service, this pharmacy will provide...The safe and effective provision of pharmaceutical services without face-to-face contact between any person receiving the services,

whether on their own or on someone else's behalf, and the owner of this pharmacy or any member of staff either on or in the vicinity of the premises...

... All staff must be made aware that face to face contact between patients (or their representatives) is prohibited in respect of any and all NHS services either on or in the vicinity of the premises.

Any reference to 'contact' with or 'contacting' a patient in relation to these SOPs means contact other than face-to-face contact either on or in the vicinity of the premises..."

5.26 SOP 3: "Procedures for NHS Pharmaceutical Services"

5.26.1 "3.1 Communication Channels

All communication regarding NHS Pharmaceutical Services should be carried out using the most suitable non face to face method for the patient and the service being provided with particular consideration to maintaining confidentiality. This may be telephone, email, video-conferencing or other types of non face to face communications such as text messages.

The pharmacy has provision for both live audio and live video communication with patients and this must always be carried out in the specified confidential area of the pharmacy premises."

- 5.27 Further, the Committee was mindful of the regulatory changes as of 1 October 2025, that distance selling pharmacies can no longer provide Directed services (Advanced, National Enhanced and Enhanced Services, with the exception of Covid-19 and Flu vaccination services) face-to-face with the patient at the pharmacy premises.
- 5.28 In its application, which the Committee acknowledged was completed before the regulatory amendments came into force, the Applicant had stated that it intended to provide "NMS [New Medicines Service] (remotely only)". As a result of this amendment, the Committee noted that the Applicant would not be able to provide any pharmaceutical services at its premises. The Committee noted that the Applicant had addressed this in its 14 day comments to the Commissioner and had provided a specific NMS SOP, which is included in the SOPs provided on appeal at SOP 7: The New Medicine Service ("NMS").
- 5.29 The Committee was aware that when the pharmacy opens, it will be the responsibility of the Commissioner, in keeping with Regulation 64, to ensure that services are provided other than with face to face contact.
- 5.30 The Committee was satisfied that the provision of essential services would be without interruption, would be available to persons anywhere in England and pharmaceutical services would be without face to face contact. The Committee went on to consider whether safe and effective provision of pharmaceutical services was likely to be secured.

- 5.31 The Committee considered pharmaceutical services including each essential service in paragraphs 3 to 22 of schedule 4 of the Regulations ("Terms of Service") in turn.
- 5.32 The Committee paid particular attention to the following aspects of the essential services, which it considered were more difficult to provide safely and effectively in a distance selling context:

Dispensing of drugs and appliances

- 5.33 The Committee considered whether the Applicant had explained how non-electronic prescriptions will be presented by the patient and how products will be provided.
- 5.34 In the Applicant's SOPs, the Committee noted the following:
- 5.35 SOP 3: "Procedures for NHS Pharmaceutical Services"
- 5.35.1 *"... Patients who wish to send paper prescriptions to the pharmacy by post should be sent stamped addressed envelopes to enable them to do so."*
- 5.36 SOP 6: "Online Order Receipt & Exemption Checking"

5.36.1 "6.2 Scope

All online services including the following:

...Requests for dispensing Private Prescriptions.

Requests to collect and dispense NHS Prescriptions."

- 5.37 SOP 20 "Order Delivery"

5.37.1 "20.6 Choice of Delivery Method

*For items **other than** cold chain / "fridge line" items, local deliveries (up to 30 miles radius, but may be extended at the discretion of the RP) the delivery driver should deliver medication. Outside this area Royal Mail should be used unless the prescription is for a controlled drug, in which case the nominated controlled drugs courier must be used (see SOP for Delivery of Controlled Drugs), or the items are fridge lines, in which case the cold chain courier must be used (see below)". [Applicant's emphasis]*

- 5.38 The Committee was satisfied that the Applicant was proposing to offer the service to all of England, as per the information contained in the SOPs.
- 5.39 The Committee was therefore satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 5(2) and 5(3) of Schedule 4.

Urgent supply without a prescription

- 5.40 The Committee considered whether the Applicant had explained how it proposes to safely and effectively receive requests from prescribers for urgent supplies of drugs and appliances.
- 5.41 The Committee noted the information in the Applicant's SOPs under the heading "Emergency Supply and Urgent Supply" which describes how the Applicant will process such a request. The Committee noted that the SOPs refer to pharmaceutical services being delivered by several means of non-face-to-face communication including telephone and email, and considered that it was reasonable to infer that these methods would be used to receive requests from prescribers for the urgent supply of drugs.
- 5.42 The Committee was therefore satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 6 of Schedule 4.

Preliminary matters before providing ordered drugs or appliances

- 5.43 The Committee considered whether the Applicant had explained how evidence will be sought and provided about the patients' entitlement to exemption or remissions from NHS Charges.
- 5.44 In the Applicant's SOPs, the Committee noted the following:
- 5.45 SOP 6: "Online Order Receipt & Exemption Checking"

5.45.1 "6.8 Exempt NHS Prescriptions

Where evidence of exemption is required or provided by the patient it can be sent to the pharmacy for verification via the delivery driver and then returned to the patient. The PMR system should be updated to reflect that necessary check has been carried out and a note of when the next check is required should be entered onto the system. The Regulations require a patient to produce 'satisfactory evidence' to confirm exemption. Where appropriate (i.e., for deliveries made other than by the pharmacy's delivery driver), the patient may scan or fax copies of the evidence to the pharmacy (or use the postal / courier service, but see NOTE below) and the pharmacy can note that the evidence provided was not in original format. It is for the pharmacist in charge to determine if the evidence is satisfactory or not and, if not, then cross the 'Evidence not Seen' box."

- 5.46 The Committee was therefore satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 7(3) of Schedule 4.
- 5.47 The Committee considered whether the Applicant had explained how charges will be paid.
- 5.48 SOP 6: "Online Order Receipt & Exemption Checking"
- 5.48.1 "6.11 Paid NHS Prescription

Check the prescription to confirm how many charges are due.

Check to see if any fees have been paid and if so, was the correct amount paid?

Contact the patient to arrange payment using the secure payments system using the “customer not present” option.

If no fees have been paid or there is a discrepancy between fees paid and those due, the patient should be contacted and directed to pay the appropriate fees via the online payment system.”

- 5.49 The Committee was satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 7(5)(b) of Schedule 4.

Providing ordered drugs or appliances

- 5.50 The Committee considered whether the Applicant had explained how drugs/appliances will be provided to the patient (including to ensure that (i) the ‘cold chain’ is maintained, where relevant, and (ii) that the requirements of the Misuse of Drugs Regulations 2001 and, in particular, Regulations 14 and 16, are met).

- 5.51 In the Applicant’s SOPs, the Committee noted the following:

- 5.52 SOP 20: “Order Delivery”

5.52.1 “20.10 Transfer to the Delivery Driver

Ensure that the pharmacist on duty is available to supervise the handing over of all items for delivery.

Ensure that any special instructions for the delivery are included with the packaging.

Ask the delivery driver to check the details on the delivery sheet correspond to the deliveries.

Ensure the delivery driver completes all the sections on the delivery sheet including their name and the date.

Ensure the delivery driver is notified of any messages for the patient or representative.

Make and retain a copy of the delivery sheet until the original has been returned by the delivery driver. The original must be returned to the pharmacy on the same day.

Ensure the deliveries are placed in the delivery vehicle and are stored securely and out of sight. The delivery vehicle must be locked at all times when left unattended.”

5.52.2 “20.11 Delivery of prescription to patient or representative address

Ask the patient/representative for their name and address.

Check the patient name and address against the prescription and the bag label. Patient confidentiality should be maintained at all times, especially if delivering to a representative.

Where appropriate ask the patient or representative to complete the reverse of the prescription.

Hand the medication to the patient or representative.

Ask the patient or representative to sign their details on the delivery sheet. If they are unable to sign the delivery sheet the delivery driver should sign on their behalf with their consent and write a note explaining the reason the patient or representative could not sign.

If necessary, collect any medication returns. Always use the Patient Returned Medication Tray that is available in the delivery vehicle. Refer to the Patient Returned Medicines SOP for further guidance.”

5.52.3 “20.12 Successful delivery

Once the deliveries are completed, return the delivery sheets to the pharmacy on the same day. The delivery sheets must be scanned into the pharmacy IT system and kept for a minimum period of 7 years.”

5.52.4 “20.13 Unsuccessful Delivery

If the patient or representative is not able to receive the delivery of their medication, complete the ‘attempted delivery’ form and post it through the letterbox. The form will have details for arranging re-delivery.

The prescription and medication must be returned to the pharmacy on the same day and the pharmacist informed of the unsuccessful delivery.

The pharmacy must follow up the unsuccessful delivery by contacting the patient to arrange a second delivery time.

DO NOT:

Post the medication through the letter/post box.

Leave the medication in the porch or any other out building.

Leave the medication at an unauthorised address.”

5.52.5 “20.14 Delivery of a prescription via Royal Mail (Not for Cold Chain or CDs)

Follow preparation for delivery process. The pharmacist must contact any patients for whom there are relevant messages or counselling required.

Ensure that the pharmacist on duty is available to supervise the handing over of all items for delivery.

Print and attach relevant Royal Mail Signed For delivery labels using the Royal Mail online business account and attach securely to outer packaging.

Ensure a return address is printed clearly on the outer packaging.

Confirm details of all prescriptions to be delivered.

Make a note of all Tracking numbers for prescriptions being delivered by Royal Mail on Delivery Log sheet.

Ensure Royal Mail driver signs Delivery Log sheet for all prescriptions being accepted for delivery. The delivery sheets must be scanned into the pharmacy IT system and kept for a minimum period of 7 years.

Email patients dispatch confirmation with their Tracking number when the prescriptions have left the premises.

All deliveries will require a signature from the patient to confirm receipt of their prescription.”

5.52.6 “20.16 Cold chain delivery via courier

All cold chain deliveries must be carried out by couriers with verified and approved cold chain procedures. A list of approved cold chain couriers is available within the Pharmacy and will be updated from time to time. Each approved courier meets stringent criteria to ensure a fully monitored and dedicated cold chain service.

Specialist cold chain courier service will ensure the integrity of the cold chain and the maximum stability of thermo-labile drugs by packing, transporting and delivering in such a way that their integrity, quality and effectiveness are always preserved. This is a dedicated, fully monitored and temperature controlled delivery service.

Any breach of cold chain conditions will be notified to the driver and any affected delivery will be cancelled with the pharmacy informed of the cold chain breach...

... Ensure any items for cold chain delivery via courier are stored in the fridge and accompanying items are appropriately marked with a fridge line sticker. Accompanying items must include a note to explain that fridge items will be delivered separately to the rest of their items to enable the cold chain to be maintained.

Ensure that the pharmacist on duty is available to supervise the handing over of all items for delivery.

A delivery must be booked using the couriers specified Cold Chain Services (refer to booking procedure with courier in the “cold chain courier” folder),

Select a delivery maintaining 2– 8°C unless the item requires shipping at a different temperature.

The cold chain item must be kept in the fridge until the courier arrives to accept the delivery.

Confirm with the courier that the delivery will be maintained at the booked temperature range.

Confirm details of all prescriptions to be delivered.

The courier must scan a barcode sticker for each item. The pharmacy retains a copy of the barcode which is also the tracking number.”

5.52.7 “20.17 Unsuccessful cold chain delivery via courier

In the event of an unsuccessful delivery, the courier will leave a ‘Missed Delivery’ card, stating the date and time of the attempted delivery along with details of how to contact the courier to arrange the redelivery. The patient can then rearrange delivery for a convenient time by telephone or Internet.

We operate to a 48 hour maximum window for cold chain deliveries and the courier will keep the cold chain intact until successful delivery for up to 48 hours. After 48 hours the items will be returned to the pharmacy and the pharmacy will contact the patient to rearrange delivery.”

5.52.8 “20.18 Breach of Integrity of Cold Chain

The courier ensures temperature integrity throughout the supply chain, from point of collection & goods-in to pharmaceutical storage to final delivery.

The cold chain service is a dedicated, fully monitored and temperature controlled delivery service. However, in the event of any breach in the integrity of this service, the system automatically alerts the delivery driver that the cold chain has not been kept intact.

Where such an event occurs, the courier is instructed to leave a ‘Missed Delivery’ card and also inform the pharmacy that the delivery was unsuccessful due to a breach of the cold chain. The pharmacy must arrange for immediate re-delivery of the items via courier and the return of the items that have failed to be delivered to the pharmacy by the courier. Items subject to a cold chain breach may not be re-used and must be segregated from the pharmacy stock.”

5.53 “SOP 24: “Controlled Drugs: Delivery”

5.53.1 “24.5 Delivery of Schedule 2 & 3 CDs

A robust audit trail is essential when controlled drugs are involved. The delivery can be made to a person who is not the patient (the patient must have given authorisation for a representative to take receipt of CDs on their behalf). A Controlled Drugs Delivery Sheet must also be filled in for CD deliveries in addition to the Delivery Log sheet.

CDs must be in a separate bag to any other medication being delivered and the bags should be attached together.

CDs and any other medicines on that patient's delivery must be stored in the lockable compartment of the delivery van and out of sight.

The delivery van must be kept locked at all times when the driver is not in the vehicle.

The delivery driver/courier must sign the back of the prescription as the representative when accepting the CD for delivery.

The delivery driver/courier must check the identity of the person accepting the delivery to ensure that it is the patient or authorised representative (passport, driving licence or government approved photo ID card are acceptable forms of ID). A delivery cannot be left with anyone who is not the patient or their authorised representative.

All entries in the CD register must be made when the medication leaves the pharmacy premises. The delivery driver/courier must be entered as the 'person collecting'.

The prescription must be retained in the pharmacy until the delivery driver returns the appropriate paperwork signed by the patient or representative to confirm successful delivery or the patient signature is confirmed online if delivered by courier.”

5.53.2 “24.6 Successful Schedule 2 & 3 Delivery

The delivery driver/courier must check the identity of the person accepting the delivery to ensure that it is the patient or authorised representative. A delivery cannot be left with anyone who is not the patient or their authorised representative.

For all successful deliveries the Controlled Drug delivery sheet signed by the patient or online courier delivery record should be cross-referenced with the prescription and CD register prior to the prescription being processed as part of the end of day procedure.”

5.53.3 “24.7 Unsuccessful Schedule 2 & 3 Delivery via pharmacy driver

Unsuccessful deliveries sent with a pharmacy driver must be returned to the pharmacy on the same day and entered back into the CD register

where appropriate with an explanation. These must then be secured in the CD cabinet where appropriate.”

5.53.4 “24.8 Unsuccessful Schedule 2 & 3 Delivery via courier

Unsuccessful deliveries sent with a courier must be returned to the pharmacy on the same day and entered back into the CD register where appropriate with an explanation. These must then be secured in the CD cabinet where appropriate. Where the time of attempted delivery means that the return cannot be made on the same day, the courier will store the drugs at their approved warehouse overnight.

When a failed delivery occurs, the tracking service will notify the pharmacy and the patient of the failed delivery so that delivery can be re-arranged for the patient at the next convenient time or returned to the pharmacy.”

5.53.5 “24.9 Note re Use of Couriers for Controlled Drugs Deliveries

The courier has pharma grade specialist facilities to meet specific quality and validation requirements for healthcare products. This includes Home Office licensed controlled drug stores.”

5.54 Based on the information before it, the Committee was satisfied that the Applicant had provided information sufficient to show that there would be compliance with paragraph 8(1) of Schedule 4.

5.55 The Committee considered whether the Applicant had explained the arrangements which ensure that, for appliances which require fitting/measuring, a registered pharmacist measures/fits them.

5.56 In the application, the Committee noted that in response to the question as to whether they were undertaking to provide appliances, the Applicant stated “*Drug Tariff part IX**EXCEPT items that require measuring or fitting*”. In the Applicant’s SOPs, the Committee noted the following under the following headings:

5.57 SOP 10: “Pharmaceutical & Legal Assessment”

5.57.1 “10.9 Items Requiring Measuring and Fitting

Where a prescription is received for an item that requires measuring or fitting the patient should be contacted and informed that these items are not available from this pharmacy as we do not provide a measuring and fitting service. Patients should be signposted to at least two other providers of the service in their area. (see signposting SOP).”

5.58 SOP 27: “Support for Self-Care, Signposting and Health Promotion”

5.58.1 “27.14 Items Requiring Measuring and Fitting

Where a prescription is received for an appliance or stoma appliance customisation or any item that requires measuring or fitting the patient

must be contacted and informed that these items are not available from this pharmacy as we do not provide a measuring and fitting service. Patients must be signposted to at least two other providers of the service in their area. (see signposting SOP)."

- 5.59 In the event that the application is granted, the Applicant would not therefore, be able to provide such appliances that require measuring and/or fitting to patients.
- 5.60 Based on the information before it, the Committee was satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 8(4) of Schedule 4.
- 5.61 The Committee considered whether the Applicant had explained what containers will be "suitable" for posted/delivered items.
- 5.62 In the Applicant's SOPs, the Committee noted the following:
- 5.63 SOP 19: "Bagging-Up"

5.63.1 "19.7 Choice of Packaging

Choice of packaging will depend on the nature of the items being delivered and the appropriate level of protection must be used to ensure that the item can withstand the normal rigours of the delivery process.

All packaging must have the tamper proof seals provided in the pharmacy attached to the packaging so that any tampering with the packaging will be evident.

Medicine for local delivery which is not fragile and to be delivered by the delivery driver can be packaged in the using the pharmacy bags supplied for standard prescription items.

DO NOT use normal cardboard boxes. When cardboard boxes are required ALWAYS use the re-enforced boxes that are purchased for delivery purposes.

For postal items, either:

At the very least - padded envelopes even for non-fragile items as this will help to ensure the integrity of the manufacturers packaging.

*For most items - bubble wrap and where necessary, polystyrene filler, placed within a cardboard box. **use the re-enforced cardboard boxes***

Large or any fragile medicines should be packed into the re-enforced cardboard boxes with bubble packaging and filling material to protect from damage.

Coldchain items should be bubble wrapped and placed in Styrofoam filled re-enforced cardboard boxes and kept in the DELIVERIES FRIDGE (rather than the storage fridge) with the “FRAGILE” and “FRIDGE LINE” stickers attached. The courier company will transport the boxes in vans with cold chain sections that protect the integrity of the box (“cold ship” packaging) and are fully monitored – typically at 2 to 8 degrees Celsius range- (see delivery SOP). Pharmacy staff should be aware that some thermolabile products can be damaged by excessive cold as well as heat. Items such as ice packs can cause freezing in medicines which is damaging to them and such items must not be used.” [Applicant’s emphasis]

- 5.64 Based on the information before it, the Committee was satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 8(15) of Schedule 4.

Refusal to provide drugs or appliances ordered

- 5.65 The Committee asked itself how the Applicant will be satisfied that when dispensing a repeatable prescription other than on the first occasion, that the patient is still using the medication, is not suffering from any side effects, the medicine regime has not changed in any way and there has been no changes to the patient’s health, which may indicate the desirability of review the patients treatment.

- 5.66 In the Applicant’s SOPs, the Committee noted the following:

- 5.67 SOP 35: “Repeat Dispensing”

5.67.1 “35.10 Prescription Reception

The pharmacy record card must be completed and attached to a RA and an entry made on each occasion a dispensing takes place.

Any amendments to the RD, e.g. items not issued or change to expected interval must be recorded in the comment section of the pharmacy copy of the card.”

5.67.2 “35.11 Pharmaceutical & Legal Assessment

Terms of Service states that a pharmacy must, when providing drugs in accordance with a repeatable prescription the importance of only requesting those items which they need. Patients should be so advised either by phone or through the inclusion of written information with delivered medication.

The pharmacist should telephone and speak with the patient before issuing a repeat and ensure:

They are taking or using, and likely to continue to take or use the medicine or appliances appropriately

Advise the patient that they should only order items that they need

Check that the patient is not suffering any side effects which may suggest they need a review of their medication

Check that the patient's regimen has not been changed since the prescriber authorised the repeatable medication.

Check that there has not been any change to the patient's health since prescription was authorised

Provide advice and encourage patients with long term, stable medical conditions to discuss repeat dispensing of their medicine with their prescriber.

Any interventions, referrals (to the patient's GP or otherwise) or refusal to supply decisions which are deemed to be clinically significant should be recorded on the Intervention and Referral Form which must be shared with the patient's GP.

The prescriber must have signed the RA. The RDs will not be signed but will be numbered as appropriate. The RA will detail the specific number of issues and, if appropriate, the dispensing interval."

- 5.68 The Committee was therefore satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 9(4) of Schedule 4.

Further activities to be carried out in connection with the provision of dispensing services

- 5.69 The Committee considered whether the Applicant had explained how appropriate advice about the benefits of repeat dispensing is given to any patient who (i) has long term, stable medical condition (that is, a medical condition that is unlikely to change in the short to medium term), and (ii) requires regular medicine in respect of that medical condition.

- 5.70 In the Applicant's SOPs, the Committee noted the following:

- 5.71 SOP 35: "Repeat Dispensing"

5.71.1 "35.10 Prescription Reception

Appropriate advice about the benefits of repeat dispensing must be given to any patient who:

has a long term, stable medical condition (that is, a medical condition that is unlikely to change in the short to medium term); and,

requires regular medicine in respect of that medical condition, including, where appropriate, advice that encourages the patient

to discuss repeat dispensing of that medicine with a prescriber at the provider of primary medical services whose patient list the patient is on.

Such advice will be provided by the Pharmacy using its permissible methods of non face-to-face contact with patients.

On receipt of a repeatable prescription from the patient, either in the post or collected from the surgery for the first time, the pharmacy staff should ensure that the patient fully understands the Repeat Dispensing Process and is provided with a patient information leaflet that outlines the benefits of the service.

Check to confirm if the patient has a long term, stable medical condition that requires regular medicine in the short to medium term and ensure relevant patients have the scheme explained to them.”

5.71.2 “35.11 Pharmaceutical & Legal Assessment

The pharmacist should telephone and speak with the patient before issuing a repeat and ensure:

...Provide advice and encourage patients with long term, stable medical conditions to discuss repeat dispensing of their medicine with their prescriber.”

- 5.72 The Committee was satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 10(1) of Schedule 4.

Disposal service in respect of unwanted drugs

- 5.73 The Committee considered whether the Applicant had explained how it will safely and effectively accept and dispose of unwanted drugs presented to it for disposal.

- 5.74 In the Applicant’s SOPs, the Committee noted the following:

- 5.75 SOP 25: “Controlled Drugs: Collection and Disposal of Patient Returns”

5.75.1 “25.5 Patient Returned Medication

This service is available to all patients living in England.

Patients or their representatives may not return and medicines directly to the pharmacy and must follow the procedures set out in this SOP.

Patients should be referred to the ‘Returning unwanted medication’ page on the website for information.

To arrange the return of unwanted medicines to the Pharmacy the patient must telephone and speak to a member of the dispensary team. For controlled drugs this must always be the pharmacist on duty.

The process for returning medication must be explained to the patient.

Each return will be made by booking an appointment for the pharmacy's driver to visit the patient's home to collect the returned medication or by sending the appropriate packaging to the patient to arrange for return by Royal Mail – Note the Royal Mail website refers to a prohibition on carrying "controlled drugs" but this refers only to illicit controlled drugs and not those supplied under the direction of a physician."

5.75.2 "25.7 Return by Royal Mail

The pharmacist must

Speak to the patient about the return and clarify the items being returned.

Assess the items for suitability for return by Royal Mail

If items are suitable for return by Royal Mail then make a note on the PMR and arrange to send the appropriate packaging to the patient for safe return (refer to bagging up SOP for appropriate packaging)

If items are not suitable for return by Royal Mail (eg clinical or contaminated waste) then provide the patient with details of their local procedures for disposal.

Send the packaging to the patient along with the instructions for appropriate packing of the goods

Contact the patient to ensure that the packaging has been received

Provide signposting via phone or email to other pharmacies where the patient prefers to dispose of unwanted medicines locally."

5.75.3 "25.8 Handling Patient-Returned CDs from Delivery Driver

Drivers need to:

Be aware that they cannot accept patient returns from patients without prior arrangement. The driver must notify the patient to follow the "returning unwanted medication" process as set out on the website.

Ensure that appropriate packaging is within the van prior to starting the journey as the patient may not have requested the correct type or there may be a requirement for additional packaging.

Pharmacy staff need to:

If CDs have been identified, immediately on receipt from the driver, secure them in a bag, clearly marking on 'Patient-returned CDs for destruction' and include the date of return; place the bag in the CD cabinet away from pharmacy stock until they can be destroyed.

As soon as possible, Refer to the 'Returned medicines form' to make the entry in the 'Patient returned CD register', to record the CD that require destruction at a later date."

5.76 SOP 26: "The Safe and Effective Receipt and Disposal of Medicines"

5.76.1 "26.6 Process for Patients to Return Medication"

Patient Returned Medication

Patients or their representatives MAY NOT return and medicines directly to the pharmacy and must follow the procedures set out in this SOP.

This service is available to all patients living in England.

Patients can be referred to the 'Returning unwanted medication' page on the website for information.

To arrange sending medication back to the Pharmacy the patient must telephone and speak to a member of the dispensary team.

Patients may

Arrange collection by the Pharmacy driver at an appointed time, or

Send unwanted medication back to the Pharmacy via courier (at the pharmacy's cost), or Royal Mail (subject to risk assessment of contents by the RP in advance) or,

The Pharmacy can arrange for medication to be collected by our specialist waste management contractor.

Advise patient of their other options to dispose of unwanted or expired medication if none of these options is suitable for them (signposting to local pharmacies).

Explaining the Process to Patients

Check which patient or patients the medication belonged to.

Check the relevant PMR to identify any hazardous / dangerous drugs or items that have been dispensed and could potentially form part of the return.

Ask the patient to identify the type of medication being returned.

If there is any item considered dangerous, such as a cytotoxic, inform the patient that we will collect items using the specialist waste management contractor and arrange for that collection to take place at a convenient time.

Go through the “unwanted medicines card” (available from the CPE website) over the phone with the patient.”

5.76.2 “26.7 Process for accepting patient returns by the Driver

Confirm that a collection of unwanted medication for disposal has been booked. Returns without a booking should only happen in exceptional circumstances as this increases the chance that the proper process for segregation of medicine has not been followed.

Ensure you are fully equipped with the utensils in your vehicle to accept unwanted medication as patients may have placed unwanted medication into incorrect bags

Wear appropriate protective clothing where there is a requirement to handle any returned waste.

Identify any controlled drugs (check with the pharmacist if necessary); segregate these and place in a labelled clear bag for the pharmacist for denaturing and disposal. For further guidance read SOP Controlled Drugs: Disposal of Patient returned medication’.

Identify any sharps and ask the customer to take these back if it safe to do so, signposting to the most appropriate route of disposal.

Identify any cytotoxic or other hazardous waste (check with the pharmacist where necessary).

Identify any flammable waste and store separately until this can be removed by the waste contractor.

Where large quantities of the same medicine are being returned, then report this to the pharmacist as this could indicate a compliance issue requiring intervention.

Complete the ‘Patients Returns Sheet’ detailing the patients name and address, also if relevant their representatives name.

Store returned medicines in the quarantine area of the van for transport.

The returnable items can be taken back to the pharmacy for destruction.

Ensure medicines are not visible in the vehicle at all times.”

5.76.3 “26.9 Return by Royal Mail

The pharmacist must

Speak to the patient about the return and clarify the items being returned.

Assess the items for suitability for return by Royal Mail

If items are suitable for return by Royal Mail then make a note on the PMR and arrange to send the appropriate packaging to the patient for safe return (refer to bagging up SOP for appropriate packaging)

If items are not suitable for return by Royal Mail (eg clinical or contaminated waste) then provide the patient with details of their local procedures for disposal.

Send the packaging to the patient along with the instructions for appropriate packing of the goods

Contact the patient to ensure that the packaging has been received

Provide signposting via phone or email to other pharmacies where the patient prefers to dispose of unwanted medicines locally.”

5.76.4 “26.10 Disposal of returned medicines

Use the specialist waste management company to provide safe and secure disposal of unwanted medicines by collection of unwanted medicines from patients and residential homes.

Unwanted medicines collected by the driver must be sorted and placed in disposal units / containers provided by the NHSCB or a waste contractor retained by the NHSCB ready for waste management services to collect.”

- 5.77 Based on all of the information before it, the Committee was satisfied that it had been provided with information sufficient to show that there would be compliance with paragraphs 13 - 15 of Schedule 4.

Promotion of healthy lifestyles

- 5.78 The Committee considered whether the Applicant had explained how it will safely and effectively promote healthy lifestyles.

- 5.79 In the Applicant’s SOPs, the Committee noted the following:

- 5.80 SOP 28: “Promotion of Healthy Living, Lifestyle & Health Campaigns”

5.80.1 “28.3 Identification of patients for promotion of Healthy Lifestyles

Identification can take three forms, namely, passive, active, or as part of the repeat (or normal) dispensing process.

Active patients will be those who have chosen to access the Lifestyle Questionnaires via the website or returned them by post and who are then identified from the results as patients to whom further information should be sent, or who should be called to follow up on the results and offer additional support and information. All patients who have prescriptions dispensed or purchase medicines from the pharmacy will be asked to fill in the Lifestyle Questionnaire which will ask for details such as existing medical conditions, height, weight and also lifestyle questions such as whether a patient is a smoker and how much exercise they normally have on a weekly basis.

Passive patients are those where the identification happens as part of another interaction with the patient, but where the patient does not appear to be actively seeking additional assistance. For example, the dispensing of a prescription which identifies the patient as having high blood pressure / diabetes etc.

As part of repeat dispensing process (or during any other interaction with a patient) staff should record the information provided by patients on the PMR system. Where a patient provides information that indicates that they would benefit from promotion of healthy lifestyles they should be recorded as a 'target patient' and the appropriate information that is relevant to them should be provided.

Leaflets will be delivered to patients with their medication. Those identified as having medical conditions such as diabetes, coronary heart disease, COPD, Asthma, high blood pressure, smokers, overweight individuals, etc. or being at risk from them or other conditions will also receive targeted campaigns. The website, app and email newsletters will also be used to promote healthy lifestyles via the health promotion zone."

5.80.2 "28.4 Health Campaigns & Community Engagement Exercise

Terms of Service require participation in a maximum of 2 campaigns per financial year, but you should agree to take part in all campaigns where practicable.

The Pharmacy will take part in national health campaigns to promote public health messages to patients across England. This will be achieved by sending out leaflets with prescriptions during specific targeted campaign periods and providing additional advice and learning resources via the website on the health promotion zone...

... We will also offer help and support on our website and direct patients to appropriate links for the health campaigns. This will ensure that patients across the UK are able to easily access information about health campaigns at all times."

- 5.81 The Committee was satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 16 – 18 of Schedule 4.

Prescription linked intervention

- 5.82 The Committee considered whether the Applicant had explained how it will assess whether persons require prescription linked intervention advice because they have diabetes, are at risk of coronary heart disease, smoke or are overweight.

- 5.83 In the Applicant's SOPs, the Committee noted the following:

- 5.84 SOP 28: "Promotion of Healthy Living, Lifestyle & Health Campaigns"

5.84.1 "28.6 Long Term Conditions

If it is appropriate to provide advice the pharmacist should provide any advice necessary and within their area of competency. Where advice is provided it should be recorded on an Intervention & Referral form. Any advice given should always aim to include counselling on healthy lifestyle as well as management of the long-term condition.

If it is not appropriate to provide advice the patient should be referred to the appropriate health or social care provider or support organisation (see Signposting SOP). Where advice cannot be provided it should be recorded on an Intervention & Referral form along with the referral organisation.

For specific groups of patients (those with diabetes, at risk of coronary heart disease, especially those with high blood pressure, and patients who smoke or who are overweight) the pharmacists must provide advice without face-to face interaction (eg telephone, Live video, via the website). Such advice should be backed up, as appropriate, by the provision of written material such as leaflets."

5.84.2 "28.7 Identification of patients for Support with Long Term Conditions

Identification can take three forms, namely, passive, active, or as part of the repeat (or normal) dispensing process.

Active patients will be those who have chosen to access the Lifestyle Questionnaires via the website or returned them by post and who are then identified from the results as patients to whom further information should be sent, or who should be called to follow up on the results and offer additional support and information. All patients who have prescriptions dispensed or purchase medicines from the pharmacy will be asked to fill in the Lifestyle Questionnaire which will ask for details such as existing medical conditions, height, weight and also lifestyle questions such as whether a patient is a smoker and how much exercise they normally have on a weekly basis.

Passive patients are those where the identification happens as part of another interaction with the patient, but where the patient does not appear to be actively seeking additional assistance. For example, the dispensing of a prescription which identifies the patient as having high blood pressure / diabetes etc.

As part of repeat dispensing process (or during any other interaction with a patient) staff should record the information provided by patients on the PMR system. Where a patient provides information that indicates that they would benefit from promotion of healthy lifestyles they should be recorded as a 'target patient' and the appropriate information that is relevant to them should be provided.

Leaflets will be delivered to patients with their medication. Those identified as having medical conditions such as diabetes, coronary heart disease, COPD, Asthma, high blood pressure, smokers, overweight individuals, etc. or being at risk from them or other conditions will also receive targeted campaigns. The website, app and email newsletters will also be used to promote healthy lifestyles."

- 5.85 The Committee was satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 17 of Schedule 4.

Health campaigns

- 5.86 The Committee considered whether the Applicant had explained how it will safely and effectively participate in public health campaigns, if and to the extent required by the Commissioner.

- 5.87 In the Applicant's SOPs, the Committee noted the following:

- 5.88 SOP 28: "Promotion of Healthy Living, Lifestyle & Health Campaigns"

5.88.1 "28.4 Health Campaigns & Community Engagement Exercise

The Pharmacy will take part in national health campaigns to promote public health messages to patients across England. This will be achieved by sending out leaflets with prescriptions during specific targeted campaign periods and providing additional advice and learning resources via the website on the health promotion zone.

The pharmacy will also take part in at least one approved community engagement exercise in relation to the promotion of health living each financial year.

Patients will be directed to the learning resources via email, text and other non face-to-face communication so that they are aware of the campaign.

Patients should also be assessed for participation in at least one clinical audit and whichever of the following that the NHSCB specifies—

(i) a clinical audit carried out in a manner which is compatible with the NHSCB's arrangements for the receiving and processing of data from the audit, or

(ii) a policy based audit (to support the development of the commissioning policies of the NHSCB) carried out in a manner which is compatible with the NHSCB's arrangements for the receiving and processing of data from the audit.

We will also offer help and support on our website and direct patients to appropriate links for the health campaigns. This will ensure that patients across the UK are able to easily access information about health campaigns at all times.

The Pharmacy will use the opportunity when dispensing prescriptions for patients who have conditions such as diabetes, heart disease, obesity and high blood pressure, to offer health advice over the phone or provide them with leaflets about their conditions. Patients will also be able to speak to the pharmacist regarding information about the campaigns. Advice and help will be available to patients during opening hours of the pharmacy and patients can access information on our pharmacy website at all times. This ensures the uninterrupted provision of the service to patients across England."

- 5.89 The Committee was satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 18 of Schedule 4.

Signposting

- 5.90 The Committee considered whether the Applicant had explained how it will provide information to users of the pharmacy about other health and social care providers and support organisations.

- 5.91 In the Applicant's SOPs, the Committee noted the following:

- 5.92 SOP 27: "Support for Self-Care, Signposting and Health Promotion"

5.92.1 "27.10 Other Provider Organisations and Support Details

Details of local health and social care providers to whom patients can be referred as well as contact details for local patient and support groups can should be provided to patients via written mailshots, flyers sent with prescription deliveries, our website and by telephone or email."

5.92.2 "27.12 Signposting

Service Description

To minimise inappropriate use of health and social care services and support services, patients who require further support, advice or treatment which cannot be provided by the pharmacy, on other health

and social care providers or support organisations who may be able to assist the person must be given sufficient information to enable them to access those services. Where appropriate, this may take the form of a referral.”

5.92.3 “27.13 Patient Identification

Identification can take place during any interaction that the patient has with the pharmacy staff. In particular, staff should consider the results from the identification of patients for the promotion of healthy lifestyles and those who have filled in the Lifestyle Questionnaire on the website.

Staff should always consider that in order to minimise inappropriate use of health and social care services and of support services and person who:

requires advice, treatment or support that we cannot provide; but

we are aware of another provider of health services who is likely to be able to provide that advice, treatment or support.

We must provide the patient with contact details of that provider and, where appropriate, refer the person to the provider. At least two providers should be identified if this is possible.”

- 5.93 The Committee was satisfied that it had been provided with information sufficient to show that there would be compliance with paragraphs 19 – 20 of Schedule 4.

Support for self-care

- 5.94 The Committee considered whether the Applicant had explained how it will provide advice and support to people caring for their families.

- 5.95 In the Applicant’s SOPs, the Committee noted the following:

- 5.96 SOP 27: “Support for Self-Care, Signposting and Health Promotion”

5.96.1 “27.8 Patient Identification

As part of repeat dispensing process / medicine sale or during any other interaction with a patient staff should record the information provided by patients on the PMR system. Where a patient provides information that indicates that they would benefit from support for self-care they should be recorded as a ‘target patient’ and the appropriate information that is relevant to them should be provided and should include:

treatment options, including advice on the selection and use of appropriate drugs which are not prescription only medicines; and

on changes to the patient’s lifestyle.”

5.96.2 “27.9 Service outline

Upon receipt of a request for help with the Support for Self-Care, including treatment of minor illness and long-term conditions, pharmacy staff should consider available resources and provide general information and advice on how to manage illness.

If appropriate, access the patient’s Summary Care Record / National Care Records Service to see if it assists in delivery of the service...

...The pharmacist should provide advice on the appropriate use of non-prescription medicines which can be used in the self-care of the relevant minor illness and / or long-term conditions.”

- 5.97 The Committee was satisfied that it had been provided with information sufficient to show that there would be compliance with paragraphs 21 – 22 of Schedule 4.

Discharge medicines service

- 5.98 The Committee considered whether the Applicant had explained how it will provide advice, assistance and support to and in respect of a health service patient – (a) recently discharged from hospital who is referred to P for advice, assistance and support in respect of the patient’s medication regimen by the staff of the hospital in which the patient stayed; or (b) who is otherwise referred to P for advice, assistance and support in respect of the patient’s medication regimen by the staff of an NHS trust and NHS foundation trust as part of arrangements linked to the transfer of care between different providers of NHS services.

- 5.99 Further, the Committee considered whether the Applicant had explained what procedures it has in place for checking referrals for the discharge medicines service.

- 5.100 In the Applicant’s SOPs, the Committee noted the following:

- 5.101 SOP 29: “Discharge Medicines Service (“DMS”)”

5.101.1 “29.3 Process

Every day the RP must check the pharmacy’s NHS.net Connect system, PharmOutcomes and Refer to Pharmacy for referrals to the DMS. Pharmacy contractors must consider any communication in the following form and manner as constituting a referral: “Any written patient information received by a community pharmacy via secure electronic message from an NHS trust or other provider of NHS services concerning a patient’s discharge to usual primary care services and their medicines regimen”.

5.101.2 “29.4 Consent

Obtain and record the informed consent from the patient prior to provision of the service using the consent form. As part of obtaining

consent discuss the requirements for data sharing. Inform the patient that any information discussed as part of the service may be shared with their GP.”

5.101.3“29.5 DMS Stages

It is expected that all patients referred to the pharmacy will receive all three stages of the service. Note that stages 1, 2 and 3 of the service may occur in parallel and first contact with the patient (as defined in the NHS Discharge Medicines Service toolkit) could happen at any stage in the process.”

5.101.4“29.6 DMS Stage 1 (within 72 hours of referral excluding times when the pharmacy is not open)

The community pharmacy receives a discharge referral. A clinical review is undertaken by a community pharmacist following receipt of a patient referral. The community pharmacy team may contact the referring NHS trust contact or the PCN pharmacy team to discuss any concerns (eg an important medicine the patient usually takes is omitted on the discharge referral) and to seek clarification about the discharge referral.”

5.101.5“29.7 Considering the appropriateness of any medication changes prior to discharge

DMS requests will not necessarily all be in the same form.

Summary Care Record / National Care Records Service Access - If appropriate, access the patient’s Summary Care Record / National Care Records Service to see if it assists in providing the service

The pharmacist must review the actions requested in the DMS and consider whether the actions requested are, in the pharmacists clinical judgement, appropriate.

For actions that are considered appropriate the pharmacist must;

Use the information in the referral, to compare (as far as possible) the patient’s medicines at discharge to those they were taking before admission to hospital.

Check any prescriptions issued to be dispensed to assess whether any changes are appropriate and identify any areas of concern.

Where necessary, discuss changes that may be appropriate or raise any issues of concern identified, to the extent that in accordance with the pharmacist’s clinical judgement, it appropriate to do so with—

(i) the staff of the hospital or other provider of NHS services that made the referral, and

(ii) any provider of primary medical services on whose patient list the patient is; and

keep and maintain records of the DMS referrals received and of any actions taken, as appropriate (in particular, to support delivery of stages 2 and 3 of the service).

REQUIRED ACTIONS AS PER NHS GUIDANCE.”

5.101.6“29.8 DMS Stage 2

The community pharmacy receives the first prescription following discharge. The pharmacist or pharmacy technician will ensure medicines prescribed post-discharge take account of the appropriate changes made during the hospital admission. If there are discrepancies, the pharmacy team will try to resolve them with the general practice, utilising existing communication channels. Alternatively, the community pharmacist may refer the patient to the PCN pharmacy team for a Structured Medication Review or other intervention.

If the pharmacy receives either a written or electronic prescription (or repeatable prescription) or EPS token and the pharmacy has received a request for Stage 2 of the DMS service either from Stage 1 or

Even without a referral to Stage 2, the pharmacy receives such a prescription as described above and the pharmacy is aware as a result of an earlier referral to Stage 2 or Stage 3 that this is the first prescription for a medicinal product following the patient's discharge from hospital, or a transfer of the patient's care from another NHS service provider, AND

The pharmacy is aware that either the patient, or their carer wishes the pharmacy to provide Stage 2 of the DMS service then the pharmacy must provide the following service as part of Stage 2

Then the pharmacist must:

Review / perform a further review of any prescription

*Summary Care Record / National Care Records Service Access
- If appropriate, access the patient's Summary Care Record / National Care Records Service to see if it assists in providing the service.*

Specifically consider if in your clinical judgement appropriate account has been taken to any changes in the medication regimen during the patient's stay in hospital or prior to the transfer of the DMS from another pharmacy.

Where you see areas of concern, raise those issues as appropriate with the patient's GP

Keep and maintain records of the DMS referrals received and of any actions taken, as appropriate (in particular, to support delivery of stage 3 of the service)."

5.101.7 "29.9 DMS Stage 3

The NHS Discharge Medicines Service should also be used as an opportunity to engage with patients about their medicines on a shared decision-making basis. Whether the patient or their carer makes contact themselves for advice, a referral is received from an NHS trust on discharge or a prescription is received following prescribing changes, the pharmacist or pharmacy technician should take the opportunity to establish the patient's understanding of their condition(s), their associated medications and how each medicine can be best administered to get optimum benefit and reduce unwanted side effects.

The community pharmacy checks the patient's understanding of their medicines regimen. The pharmacist or pharmacy technician will hold a discussion, adopting a shared decision-making approach, with the patient (or the carer if appropriate) to check their understanding of their post-discharge medicines' regimen. The pharmacist or pharmacy technician will identify any adherence, clinical issues, outstanding questions or needs the patient may have regarding their medicines."

- 5.102 The Committee was satisfied that it had been provided with information sufficient to show that there would be compliance with paragraphs 22B and 22C of Schedule 4.

Websites and health promotion zones

- 5.103 The Committee considered whether the Applicant had explained how it will ensure that it has a website for use by the public for the purpose of accessing pharmaceutical services from those premises, on which there is an interactive page, clearly promoted to any user of the website when they first access it, which provides public access to a reasonable range of up to date materials that promote healthy lifestyles by addressing a reasonable range of health issues.

- 5.104 In the Applicant's SOPs, the Committee noted the following:

- 5.105 SOP 27: "Support for Self-Care, Signposting and Health Promotion"

5.105.1 "27.11 Health promotion zone on our website

The website allows patients to access pharmaceutical services via our interactive page.

Explaining the Interactive Page to Patients

The interactive page is promoted on the website so that when a patient first visits the website they are signposted to a range of up to date materials that promote healthy lifestyles.

The Superintendent Pharmacist is responsible for ensuring that a reasonable range of materials are accessible via the interactive page and that they address a reasonable range of health issues.

The health promotion zone may also includes details of current health campaigns and other information to promote healthy lifestyle choices as well as providing access to the Lifestyle Questionnaire that is used to target health information to patients.”

- 5.106 The Committee was satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 28C of Schedule 4.

Summary

- 5.107 On the information before it, the Committee could be satisfied that there are procedures likely to secure safe and effective provision of pharmaceutical services as required by Regulation 25(2)(b).
- 5.108 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 5.108.1 confirm the Commissioner’s decision;
 - 5.108.2 quash the Commissioner’s decision and redetermine the application;
 - 5.108.3 quash the Commissioner’s decision and, if it considers that there should be a further notification to the parties to make representations, remit the matter to the Commissioner.
- 5.109 Given that the Committee had reached a different decision to that of the Commissioner, the Committee determined that the decision of the Commissioner must be quashed.
- 5.110 The Committee considered whether there should be a further notification to the parties detailed at paragraph 19 of Schedule 2 of the Regulations to allow them to make representations if they so wished (in which case it would be appropriate to quash the original decision and remit the matter to the Commissioner) or whether it was preferable for the Committee to reconsider the application.
- 5.111 The Committee noted that representations on Regulation 25 had already been made by parties to the Commissioner, and these had been circulated and seen by all parties as part of the processing of the application by the Commissioner. The Committee further noted that when the appeal was circulated representations had been sought from parties on Regulation 25.
- 5.112 The Committee concluded that further notification under paragraph 19 of Schedule 2 would not be helpful in this case.

6 **Decision**

- 6.1 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.
- 6.2 The Committee:
 - 6.2.1 quashes the decision of the Commissioner; and
 - 6.2.2 redetermines the application as follows -
 - 6.2.2.1 the Committee was satisfied that the premises of the Applicant are not on the same site or in the same building as the premises of a provider of primary medical services with a patient list;
 - 6.2.2.2 the Committee was satisfied that all essential services were likely to be secured without interruption during the opening hours;
 - 6.2.2.3 the Committee was satisfied that all essential services were likely to be secured for persons anywhere in England;
 - 6.2.2.4 the Committee was satisfied that pharmaceutical services were likely to be secured in a safe and effective manner; and
 - 6.2.2.5 the Committee was satisfied that pharmaceutical services were likely to be secured without face to face contact.
 - 6.2.3 The application is granted.

Case Manager
Primary Care Appeals