

OFFICIAL: SENSITIVE

12 January 2026

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London  
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**REF: SHA/26737**

**APPEAL AGAINST GLOUCESTERSHIRE ICB  
DECISION REGARDING A BREACH NOTICE AT  
FIRST CALL PHARMACY (FVM62), OFFICE 1G,  
UNIT 1, MORELANDS TRADING ESTATE,  
BRISTOL ROAD, GLOUCESTER, GL1 5RZ**

Tel: 020 3928 2000  
Email: [nhsr.appeals@nhs.net](mailto:nhsr.appeals@nhs.net)

## 1 Outcome

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

A copy of this decision is being sent to:

First Call Pharmacy  
NHS South West Collaborative Commissioning Hub on behalf of Gloucestershire ICB

REF: SHA/26737

Tel: 020 3928 2000  
Email: [nhsr.appeals@nhs.net](mailto:nhsr.appeals@nhs.net)

**APPEAL AGAINST GLOUCESTERSHIRE ICB  
DECISION REGARDING A BREACH NOTICE  
AT FIRST CALL PHARMACY (FVM62),  
OFFICE 1G, UNIT 1, MORELANDS TRADING  
ESTATE, BRISTOL ROAD, GLOUCESTER,  
GL1 5RZ**

**1 The Breach Notice**

A Breach Notice dated 29 September 2025 was sent to First Call Pharmacy Ltd (“the Appellant”) in respect of Office 1G, Unit 1, Morelands Trading Estate, Bristol Road, Gloucester, GL1 5RZ

- 1.1 **“Re: Breach Notice:** First Call Pharmacy Ltd **t/a** First Call Pharmacy (FVM62)
- 1.2 I am writing to inform you that at its meeting on **08/09/2025**, the South West Pharmaceutical Services Regulatory Committee (SW Committee) considered the issue of a Breach Notice relating to the above pharmacy. The SW Committee acts on behalf of your commissioner, NHS Gloucestershire ICB (the Commissioner).
- 1.3 This is related to not Completing the DSP Toolkit for 2024/25 response by the deadline.
- 1.4 The decision was made by the SW Committee under Regulation 71, in line with your Terms of Service for NHS Pharmacists Schedule 4 Part 4 paragraph 35 (4) of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 to issue the attached Breach Notice.
- 1.5 As with any community pharmacy to whom we issue a Breach Notice, I would encourage you to seek support from your professional body and/or from Community Pharmacy Local (CPL). Details of your local CPL can be found here: [LPCs & Local - Community Pharmacy England](#).”

**Breach Notice**

- 1.6 **“Name of Contractor:** First Call Pharmacy Ltd T/A First Call Pharmacy (FVM62)
- 1.7 **Address of premises:** Office 1G, Unit 1, Morelands Trading Estate, Bristol Road, Gloucester. GL1 5RZ (The Contractor)

- 1.8 This is a Breach Notice issued by the **NHS Gloucestershire Integrated Care Board (ICB)**, referred to as the Commissioner in this Breach Notice, under regulation 71 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. Issue of this Notice has been considered and approved by the NHS South West Pharmaceutical Services Regulations Committee (“the SW Committee”).
- 1.9 **Nature of the breach**
- 1.10 Contrary to Regulation 18 of The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and in accordance with Schedule 4 Part 4 paragraph 35 (4) of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, the Contractor did not complete the DSP Toolkit 2024-2025. The Contractor is required under the Terms of Service to engage with this process.
- 1.11 **Statement of reasons**
- 1.12 The NHS Digital Operations and Service Management team email all administrators when the yearly DSPT assessment is released and ready for completing.
- 1.13 They also email again at the beginning of the year to remind admins of the June deadline for completion.
- 1.14 All NHS organisations receive the same number of notifications from The NHS Digital Operations and Service Management team.
- 1.15 The deadline for completing the DSP Toolkit was **midnight 30 June 2025**.
- 1.16 A further two reminders were sent by the SWCCH, by the same means as above, on:
- 1.16.1 03 July 2025
- 1.16.2 15 July 2025
- 1.17 There were also reminders in the NHS South West Collaborative Commissioning Hub Pharmacy Bulletin where the deadline of 30 June 2025 was reiterated. Bulletins including the reminders were sent from [england.pharmacysouthwest@nhs.net](mailto:england.pharmacysouthwest@nhs.net) to the pharmacy’s designated NHSmail account on the following dates:
- 1.17.1 28 May 2025
- 1.17.2 27 June 2025
- 1.18 Despite numerous reminders the Contractor failed to complete their DSP Toolkit for 2024-25 by the deadline given.
- 1.19 **Action Required**

1.20 The Contractor is required not to repeat the breach.

#### 1.21 **Right to Appeal**

1.22 You have a right of appeal to the Secretary of State against the issuing of this Breach Notice. Should you choose to appeal then you should send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this notice to [nhsr.appeals@nhs.net](mailto:nhsr.appeals@nhs.net) or: Primary Care Appeals NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU.

1.23 Please note that you can seek advice and support from **Community Pharmacy Gloucestershire**, who are your statutory representative body, and we would be happy to include them (or any of the other Community Pharmacy Locals who represent you) in meetings with you in the future. If this would be helpful, please advise my colleagues at [england.pharmacysouthwest@nhs.net](mailto:england.pharmacysouthwest@nhs.net) and we will include them in meeting arrangements.”

## 2 **The Appeal**

In an email dated 3 October 2025 addressed to NHS Resolution, the Appellant appealed against Gloucestershire ICB’s (“the Commissioner”) decision. The grounds of appeal are:

2.1 “I acknowledge your letter dated 29 September 2025 and wish to appeal against this Breach Notice.

2.2 The grounds of our appeal is as follows. [sic]

2.2.1 DSP Toolkit Site crashing multiple times during our submission attempted in mid-May 2025.

2.2.2 This resulted in a request to re-set our password on at least 2/3 attempts (please check your data log).

2.2.3 The 2 reminders sent are now visible, however these ended up in our junk folder.

2.3 We were then hoping to re-visit and complete the toolkit in advance of the deadline being 30 June 2025, but unfortunately this has been overlooked and therefore I can only apologise.

2.4 This pharmacy strides on meeting all necessary expectations set out by the NHS and has always aimed to exceeding the high standards.

2.5 We have put counter-measures in place to review this requirement annually prior to submission deadline. 2025-26 DSP Toolkit has also been completed.

2.6 I trust that this is satisfactory, and that this Breach can be removed against First Call Pharmacy.”

### 3 **Summary of Representations**

This is a summary of representations received on the appeal.

The Commissioner

- 3.1 “Thank you for your email dated 06 October 2025 inviting representation in response to the appeal received against the decision made by the South West Pharmaceutical Services Regulations Committee (the Committee) on behalf of NHS Gloucestershire Integrated Care Board, (the Commissioner) to issue a breach notice to First Call Pharmacy (FVM62) referred to in the breach as the ‘Contractor’.
- 3.2 Please treat the following emails and attachments, as part of the Commissioner’s representations on this appeal:
  - 3.2.1 Appendix A - Email of the 3rd of July sent to the contractor for urgent action: Non completion of DSP Toolkit
  - 3.2.2 Appendix B - Email of the 29th of July sent to the contractor for urgent action: Non completion of DSP Toolkit
  - 3.2.3 Appendix C - SW community Pharmacy bulletin sent to all SW pharmacies on the 27th of June 2025
  - 3.2.4 Appendix D - Copy of the minutes from the September PSRC meeting
  - 3.2.5 Appendix E - Copy of the Breach Notice sent to the contractor
  - 3.2.6 Appendix F - Copy of the DSP Tool kit response spreadsheet
- 3.3 The DSP Toolkit portal is available every year in the summer. The 2024/25 DSP Toolkit Portal was open for completion from July 2024 to midnight 30 June 2025.
- 3.4 The NHS Digital Operations and Service Management team email all administrators when the yearly DSPT assessment is released and ready for completing. They also email again at the beginning of the year to remind administrators of the June deadline for completion. All NHS organisations receive the same number of notifications from the NHS Digital Operations and Service Management team.
- 3.5 The deadline for completing the DSP Toolkit was midnight 30 June 2025.
- 3.6 A further two reminders were sent by the Commissioner, using the Contractors designated generic email address, on:
  - 3.6.1 03rd July 2025 (Appendix A)
  - 3.6.2 29th July 2025 (Appendix B)

- 3.7 There was also a reminder in the Commissioners Community Pharmacy Bulletin, where the deadline of 30 June 2025 was reiterated. This bulletin was shared with all contractors, using their designated generic email address, on the 27 June 2025 (Appendix C).
- 3.8 Contrary to Schedule 4 Part 4 paragraph 28(2)(f)(ii) of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, the Contractor did not complete and submit the required annual version of the DSP Toolkit. The Contractor is required under their terms of service to engage with this process. The approved particulars specify the assessment must be completed and submitted by 30 June each year.
- 3.9 On the 08 September 2025, the South West Pharmaceutical Services Regulatory Committee (the Committee) considered the issue of lack of response to the Annual DSP Toolkit, relating to the above Contractor. The decision was made by the SW Committee to issue the attached Breach Notice. (Appendix D).
- 3.10 Within the appeal letter, the Contractor advises of the following: -
- 3.10.1 DSP Toolkit Site crashing multiple times during our submission attempted in mid-May 2025.
- 3.10.2 This resulted in a request to re-set our password on at least 2/3 attempts (please check your data log).
- 3.10.3 The 2 reminders sent are now visible, however these ended up in our junk folder.
- 3.11 Noting the Contractor states the DSP Toolkit Site crashed during their submission attempt in mid-May 2025, it should be noted the national deadline for submission was 30 June 2025. Emails were sent out the Contractor to remind them of the deadline by the NHS Digital Operations and Service Management team. A further two emails were sent to the Contractor by the Commissioner (Appendix A and B): the email sent on 3 July 2025 offered a revised deadline of 10 July 2025 and the email sent on 29 July 2025 requested completion of the DSP Toolkit by 01 August 2025. The national deadline was also included in the Commissioner Community Pharmacy Bulletin that was sent to the Contractor. The Contractor was also contacted by the Commissioner on the 15 August 2025 by telephone and were advised the DSP Toolkit would be completed by the end of the week (Appendix F). It is the Contractors responsibility to ensure they are receiving commissioner emails including checking their junk email.
- 3.12 In the email sent on the 29 July 2025 (Appendix B), clear instructions were provided on how the Contractor could obtain assistance if they were experiencing issues completing the DSP Toolkit and the link to the correct team was provided.
- 3.13 On the 29 September 2025, three months after the 2024/25 DSP Toolkit should have been completed and published the Contractor was sent a Breach notice as the DSP Toolkit had not been completed and published. (Appendix E).

- 3.14 At the time of writing this response to the Contractors appeal, it should be noted the Commissioner has still not received the completed and published 2024/25 DSP Toolkit. The Commissioner acknowledges that the 2025/26 version has been completed and submitted. However, it does not alter the fact that the 2024/2025 version has NOT been submitted, it is an annual requirement.
- 3.15 The Commissioner appreciates the pressures facing community pharmacies, and we sympathise with the Contractor, however, it is of the view that the Contractor had numerous opportunities to complete the DSP Toolkit. The Commissioner maintains the decision to issue the breach notice to the Contractor was justified and necessary and requests that the appeal be rejected.”

## 4 Observations

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

## 5 Consideration

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

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

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

*10(2) “Those lists (which are pharmaceutical lists) are*

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

- 5.3 The Regulations contain no definition as to what constitutes a breach of terms of service which is not capable of remedy.
- 5.4 I note that the pharmacy is included on the pharmaceutical list and that there is no dispute between the parties with regard to this.
- 5.5 I note that the Breach Notice was issued pursuant to Regulation 71(1) and is compliant with the requirements of a breach notice as it includes the nature of the breach and an explanation of the Appellant’s right of appeal under Regulation 77(1)(c).
- 5.6 The Breach Notice states:

- 5.6.1 *“Contrary to Regulation 18 of The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and in accordance with Schedule 4 Part 4 paragraph 35 (4) of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, the Contractor did not complete the DSP Toolkit 2024-2025. The Contractor is required under the Terms of Service to engage with this process.”*
- 5.7 The Breach Notice goes on to detail the process by which the Commissioner notified the Appellant of the requirements and deadline date for actions to be completed, which I note was 30 June 2025. The Commissioner states *“The NHS Digital Operations and Service Management team email all administrators when the yearly DSPT assessment is released and ready for completing”* and further *“They also email again at the beginning of the year to remind admins of the June deadline for completion.”* The Breach Notice states that reminders were sent by email on 3 July and 15 July 2025, although I note that the Commissioner’s representations indicate that the relevant dates were 3 July and 29 July 2025, with copies of those emails being provided. Reminders were also provided in the Commissioner’s Pharmacy Bulletins which were provided to all contractors on 28 May and 27 June 2025.
- 5.8 The Appellant did not respond to the reminders and therefore the Commissioner proceeded to issue the Breach Notice on 29 September 2025.
- 5.9 I am of the view that the Appellant had the opportunity to enter into local dispute resolution with the Commissioner but did not do so. There is no dispute raised by either party that the local dispute resolution process has not been exhausted. Given that both parties do not dispute that local dispute resolution has been exhausted I am content that I can deal with this matter.
- 5.10 Schedule 4, Part 4, paragraph 35(4) of the Regulations states:
- 35(4) P must, at the request of NHS England, send to NHS England by means of an electronic communication of the type specified in the request any information to which a person authorised in writing by NHS England would have access during an inspection of P’s pharmacy premises pursuant to sub-paragraph (1), if—*
- (a) P has that information in a form which means it may be sent by that form of electronic communication; or*
- (b) it is reasonable for NHS England to request that P convert that information into a form which means that it may be sent by that form of electronic communication (and NHS England does so request).*
- 5.11 I note that the Appellant seeks to appeal against the issuing of the Breach Notice explaining that the DSP toolkit site crashed multiple times which resulted in a request for the password to be reset. Further, the two reminders which were sent had ended up in the ‘junk’ email folder. The Appellant goes on to state *“We were then hoping to re-visit and complete the toolkit in advance of the deadline being 30 June 2025, but unfortunately this has been overlooked*

*and therefore I can only apologise.”* I note there is no dispute that the DSP Toolkit was not submitted by the deadline of 30 June 2025, or that the Appellant did not respond to the two reminders issued by the Commissioner in July 2025, or the telephone call of August 2025, which gave further opportunities to submit the DSP Toolkit.

- 5.12 Whilst the Appellant states that the “*2 reminders sent are now visible, however these ended up in our junk folder*” the Appellant has not sought to dispute that the various other communications as noted above were sent by the Commissioner, nor received, and I consider that sufficient notice of the requirements were provided.
- 5.13 I note that the Appellant has confirmed that the 2025/26 DSP Toolkit has been completed, which is not the subject of this appeal.
- 5.14 The Commissioner states that the 2024/25 DSP toolkit has still not been completed which implies that the Appellant does have the opportunity to remedy the breach in which case, it could be argued that issuing a remedial notice might have been a more appropriate course of action, however as the Appellant has still not provided any information to demonstrate that the 2024/25 DSP toolkit has been completed, there does not appear to be any real possibility of the Appellant rectifying the breach in a timely manner as required by the Commissioner.
- 5.15 Whilst I commend the Appellant for putting “*counter-measures in place to review this requirement annually prior to submission deadline*”, I am of the view that the Appellant has a responsibility to comply with the requirement to submit the DSP Toolkit when requested to do so by the Commissioner, as set out in the Regulations and that this has still not been done for the 2024/25 DSP toolkit.
- 5.16 As a result of the comments I make above, I am of the view that:
- 5.16.1 the Appellant did not return the DSP Toolkit by the required deadline;
- 5.16.2 such action constitutes a breach of the Appellant’s terms of service as set out in paragraph 35(4) of Schedule 4 to the Regulations; and
- 5.16.3 the Commissioner was entitled to issue the Breach Notice.

## **6 Decision**

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

**Head of Appeals**  
**NHS Resolution**