

15 January 2026

REF: SHA/26744

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**APPEAL AGAINST HAMPSHIRE AND ISLE OF
WIGHT ICB DECISION TO REFUSE AN
APPLICATION BY MEDSCHECK LTD FOR
INCLUSION IN THE PHARMACEUTICAL LIST AT
12A THE SQUARE, WICKHAM, FAREHAM,
HAMPSHIRE, PO17 5JQ UNDER REGULATION 25**

1 Outcome

- 1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, quashes the decision of the Commissioner.
- 1.2 The Committee re-determined that the application should be refused.

A copy of this decision is being sent to:

Medscheck Ltd
PCSE on behalf of Hampshire and Isle of Wight ICB

REF: SHA/26744

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Email: nhsr.appeals@nhs.net

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1 The Application

By application dated 20 June 2025, Medscheck (“the Applicant”) applied to Hampshire and Isle of Wight ICB (“the Commissioner”) for inclusion in the pharmaceutical list at 12A the Square, Wickham, Fareham, Hampshire, PO17 5JQ 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

Please find below information to 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.

Please describe the procedure that will be followed where a patient attends the premises and asks for one or more of the essential services.

If you are undertaking to provide advanced services at the premises please describe how you will do so without providing any element of essential services.

You must ensure that you provide sufficient information within this application form to satisfy NHS England or the relevant delegated integrated care board on the above points. You are not required to submit your standard operating procedures for the premises but if you do they will be circulated to interested parties unless NHS England or the relevant delegated integrated care board is satisfied that the full disclosure principle does not apply.

- 1.4 "Essential Services will provided [sic] remotely through the deployment of an approved Website and Patient App such as to enable any patient anywhere in England to request NHS Essential services without a face to face contact. The website, App and all other digital platforms for communication will be available uninterrupted at least during the opening hours of the premises.
- 1.5 SOPs are available should NHS England or the relevant delegated integrated care board wish to see them.
- 1.6 Only advanced services that can be provided remotely will be provided. The pharmacy does not intend to provide services that could require service users to come to the premises.

Request for face-to-face service provision

- 1.7 If any member of staff receives a query from any member of the public, or patient or their carers that requests the provision of any Essential Service face to face on or in the vicinity of the premises then they must;
- 1.8 Inform the person that no face-to-face contact may occur between the patient or their representative and any member of staff.
- 1.9 Provide the person with a copy of our patient information leaflet that explains what services the pharmacy provides and why they cannot be carried out face-to-face.
- 1.10 Refer the person to the Responsible Pharmacist if they require any further explanation.
- 1.11 Establish where the person is located in England and which services they require.
- 1.12 Explain that due to NHS Regulations we are unable to provide face-to-face provision of NHS Essential Services.

- 1.13 Use the NHS Choices website to find suitable service providers near to the patient and offer them their details to contact them (note this is not “signposting” as an NHS service and is simply providing proper patient care in accordance with GPhC standards).
- 1.14 Medscheck Ltd has previously been granted a DSP contract with ref: CAS-26468- R0P3C8 which was closed at the choice of Medscheck Ltd, so has demonstrated a clear respect for adhering to the requirements and regulations.”

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 9 October 2025 states:

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

- 2.1 “Frimley 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.”

Extract from the ‘Pharmaceutical Services Regulations Committees meeting in common for: Buckinghamshire, Oxfordshire and Berkshire West ICB, Hampshire & IoW ICB & Frimley ICB’ minutes

- 2.2 “Medscheck Ltd – Distance Selling Premises Application
- 2.3 CAS no: CAS-370308-V0B4N4
- 2.4 Address: 12a The Square, Wickham, Fareham, Hampshire, PO17 5JQ
- 2.5 HWB: Hampshire
- 2.6 ICB: Hampshire and Isle of Wight

The Application

- 2.7 An application from Medscheck Ltd for a Distance Selling Premises Application was received on 24 June 2025. The Committee was now required to consider the application in accordance with Regulation 25 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.

Consideration

- 2.8 The Committee considered the following:
- 2.9 The NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.
- 2.10 Department of Health guidance on Distance Selling Premises.
- 2.11 The application form provided by the Applicant.

- 2.12 Representations made by Community Pharmacy Hampshire and Isle of Wight LPC, and Boots UK Ltd.
- 2.13 The Applicant did not respond to the representations received during the consultation period.
- 2.14 The Committee decided it was not necessary to hold an oral hearing before determining the application.
- 2.15 A map of the locality showing the nearest community pharmacies and GP Surgeries, in relation to the proposed premises for the Distance Selling pharmacy.
- 2.16 The Committee noted that a site visit had not been undertaken as this application for a distance selling pharmacy is not visited by members of public.

Regulation 31 – Refusal: same or adjacent premises

- 2.17 The Committee noted that it was required to refuse an excepted application, if the two conditions under paragraph 31(2) applied. These conditions are –
 - 2.17.1 *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") from the premises to which the application relates, or adjacent premises; and*
 - 2.17.2 *The NHSCB 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).*
- 2.18 The Committee was satisfied there is no pharmacy providing pharmaceutical services at the same or adjacent premises. The application did not therefore need to be refused in accordance with Regulation 31.
- 2.19 The Committee noted that the Applicant stated in section 4 of the application form that it does not intend to provide advanced or enhanced service services, but in section 7.3 of the application forms states "Only advanced services that can be provided remotely will be provided."
- 2.20 The Committee was therefore unclear if the Applicant intended to provide Advanced Services.
- 2.21 The Committee noted that the pharmacy intends to open for 40 core hours per week.
- 2.22 The Committee went on to consider the reasons provided by the Applicant as to why the application should not be refused.

Regulation 25(1)

- 2.23 The Committee noted that as this was a distance selling application Regulation 25(1) indicates that section 129(2A) of the National Health Service Act 2006 does not apply, provided that Regulation 25(2) does not require the application to be refused.

Regulation 25(2)(a)

- 2.24 The Committee noted the proposed address and that it is not in the same site or building as a provider of primary medical services with a patient list. The Committee therefore did not have to refuse the application under Regulation 25(2)(a).

Regulation 25(2)(b)

- 2.25 The Committee noted that it had to be satisfied that services would be provided on an uninterrupted basis to patients anywhere in England who request those services and that pharmaceutical services would be provided safely and effectively 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.
- 2.26 The Committee noted that the applicant had committed to provide pharmaceutical without face to face contact at the pharmacy premises and stated that pharmacy would have a suitable infrastructure in place to allow uninterrupted provision of essential services. They had also stated that pharmaceutical services would be provided safely and effectively without face-to-face contact.
- 2.27 However, based on the information provided, the Committee was not satisfied that there would be uninterrupted provision of essential services, during the opening hours of the premises, to persons anywhere in England who request those services during the stated opening hours.
- 2.28 The Committee went on to consider whether pharmaceutical services would be provided safely and effectively 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.
- 2.29 The Committee took the view that where compliance with the Terms of Service would ordinarily require face to face contact, the Applicant must explain how it is going to achieve compliance (and therefore safe and effective provision) without face-to-face contact.
- 2.30 The Committee noted the limited information provided in the application and could not conclude that pharmaceutical services would be provided safely and effectively 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.

Decision

- 2.31 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.

- 2.32 The Committee determined the application as follows –
- 2.32.1 the Committee was satisfied that the proposed premises were not adjacent to or in close proximity to other chemist premises.
 - 2.32.2 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.
 - 2.32.3 the Committee was not satisfied that all essential services were likely to be secured without interruption during the stated opening hours.
 - 2.32.4 the Committee was not satisfied that all essential services were likely to be secured for persons anywhere in England.
 - 2.32.5 the Committee was not satisfied that all pharmaceutical services were likely to be secured in a safe and effective manner.
 - 2.32.6 the Committee was not satisfied that all pharmaceutical services were likely to be secured without face-to-face contact.
- 2.33 The Committee determined to refuse the application.
- Third Party Rights Of Appeal
- 2.34 The application is refused so the applicant has the right to appeal.
- 2.35 The Committee decided not to grant third party rights of appeal to the decision to any of the parties that responded during the consultation period because the application had been refused.”

3 The Appeal

In an undated letter received by email on 10 October 2025, the Applicant appealed against the Commissioner’s decision. The grounds of appeal are:

- 3.1 “Grounds of appeal to the Secretary of State (via NHS Resolution):
- Introduction
- 3.2 This is an appeal against the decision of Frimley ICB (acting for Hampshire & Isle of Wight ICB) dated 09 October 2025, refusing Medscheck Ltd’s application for inclusion in the pharmaceutical list in respect of a distance selling premises (DSP) at the address above.
- 3.3 The refusal was made on the grounds that the Committee was not satisfied that the proposed arrangements would secure the safe and effective provision of essential services without face-to-face contact, or that such services would be provided on an uninterrupted basis to persons anywhere in England, as required by Regulation 25(2)(b) of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

Summary of the Decision

- 3.4 The Decision Report (Annex 37.3, 24 September 2025) records that the Committee accepted the application was valid and not excluded under Regulations 25(2)(a) or 31; acknowledged Medscheck's commitment to provide essential services remotely; but concluded it was not satisfied that essential services would be uninterrupted, available nationwide, safe, and without face-to-face contact.

Grounds of Appeal

- 3.5 Medscheck Ltd respectfully submits that the Committee erred in law, misapplied Regulation 25(2)(b), and failed to have regard to relevant evidence in reaching its decision. The specific grounds are set out below.

- 3.6 (a) Misapplication of Regulation 25(2)(b)

- 3.7 In previous NHS Resolution determinations — including Pharmacy2U Ltd (2019), Prescription Direct Ltd (2021), and Simple Online Pharmacy Ltd (2020) — the Appeals Committee accepted distance selling applications that described remote infrastructure and SOP assurances in general terms. Those decisions confirm that Regulation 25(2)(b) requires procedural assurance, not exhaustive technical evidence. The Committee's contrary approach here imposed an unreasonably high evidential burden.

- 3.8 Regulation 25(2)(b) requires the ICB to be satisfied that the applicant's procedures will secure the uninterrupted and safe provision of essential services without face-to-face contact. The regulation does not require proof to a higher standard. The Committee's decision treated it as a test of operational readiness rather than procedural sufficiency, inconsistent with previous NHS Resolution decisions.

- 3.9 (b) Failure to consider evidence and undertakings provided

- 3.10 The application included clear statements that no face-to-face services would be provided, confirmation of uninterrupted remote services, and undertakings to provide SOPs. The Committee did not request further details or clarification under Regulation 26, amounting to procedural unfairness. [sic]

- 3.11 (c) Inconsistent and inadequate reasoning

- 3.12 The Committee accepted statements that uninterrupted provision would be ensured, yet concluded otherwise without explanation. This renders the decision inadequately reasoned and irrational under Regulation 41(3) [sic].

- 3.13 (d) Disproportionate interpretation of the DSP model

- 3.14 The Committee failed to consider that Medscheck Ltd previously held a compliant DSP contract (CAS-26468-R0P3C8), demonstrating operational understanding and compliance. Ignoring this was an error of relevant consideration.

Remedy Sought

- 3.15 Medscheck Ltd therefore requests that NHS Resolution:

- 3.15.1 Quash the decision of Frimley ICB dated 09 October 2025; and
- 3.15.2 Direct that the application be granted; or alternatively
- 3.15.3 Remit the matter for reconsideration with the correct interpretation of Regulation 25(2)(b).

Supporting Documents

- 3.15.4 Application Form (June 2025) [Section 1 above]
- 3.15.5 ICB Decision Report (24 September 2025) [Section 2 above]
- 3.15.6 Refusal Letter (09 October 2025) [Section 2 above]
- 3.15.7 Statement of previous DSP compliance (CAS-26468-R0P3C8)

Statement of Truth

- 3.16 I confirm that the facts stated in this appeal are true to the best of my knowledge and belief."

4 **Summary of Representations**

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

5 **Additional information**

It was noted that the appeal referred to an enclosure entitled "Statement of previous DSP compliance" however no copy was received. A copy of this was requested from the Applicant who, in an email of 8 January 2026 stated:

- 5.1 "The statement of previous DSP compliance refers directly to fact Medscheck Ltd has operated and successfully operated, having been a registered GPhC pharmacy and shown to be compliant with NHS regulations (successfully meeting requirements as per the CPAF inspections by the NHS Contracts team) for a DSP that was since closed at my own request due to having the need to commit my focus elsewhere on my pharmacy business.
- 5.2 ODS Code I refer to:
- 5.3 <https://www.odsdatabsearchandexport.nhs.uk/?search=generalorg&query=NA TIONAL%20HEALTH%20PHARMACY> FDE63 which you can see was successfully operating from 1st June 2022- 1st September 2023."

6 **Consideration**

- 6.1 The Pharmacy Appeals Committee ("Committee") appointed by NHS Resolution, had before it the papers considered by the Commissioner.
- 6.2 It also had before it the responses to NHS Resolution's own statutory consultations.

- 6.3 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.
- 6.4 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”).

Regulation 31

- 6.5 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).

- 6.6 The Committee noted that the Applicant, in their application, had stated “*Not applicable as no other pharmacy in same or adjacent premises*”. The Committee further noted that the Commissioner was “*satisfied there is no pharmacy providing pharmaceutical services at the same or adjacent premises*” and had gone on to conclude that “*the application did not therefore need to be refused in accordance with Regulation 31.*” The Committee having noted the above and that this has not been disputed on appeal, determined that it was not required to refuse the application under the provisions of Regulation 31.

Regulation 25

- 6.7 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."*

6.8 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)

- 6.9 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)

- 6.10 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.*” In its decision letter, the Commissioner had concluded that “... *the proposed address ... is not on the same site or building as a provider of primary medical services with a patient list*” and “*did not have to refuse the application under Regulation 25(2)(a)*”. The Committee noted that this had not been disputed and that it had not been provided with any information to persuade it otherwise. Based on the information before it, 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)

- 6.11 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.
- 6.12 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.
- 6.13 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.
- 6.14 The Committee noted the comments from the Applicant that “*SOPs are available ...*” and further on appeal that “*the Committee did not request further details or clarification under Regulation 26 [sic] ...*”
- 6.15 The Committee was of the view that it is a matter for the Applicant to provide the relevant information required, either in the first instance to the Commissioner or on appeal, to demonstrate that there would be compliance with Regulation 25. The Committee is of the view that this does not have to be in the form of SOPs (as they may contain matters not relevant to the Committee’s consideration) as there are many ways an applicant can choose to organise itself in order to comply with the various requirements of the Regulations.

- 6.16 The Committee noted the comments from the Applicant, on appeal, with regard to previous determinations which the Applicant says *“the Appeals Committee accepted distance selling applications that described remote infrastructure and SOP assurances in general terms.”* The Committee noted that whilst the Applicant had made reference to three determinations, no further information or case numbers were provided. In any event, the Committee is mindful that it considers each application and subsequent appeal on its own merits, based on the information provided to it. The Committee therefore considered the information which the Applicant had provided in support of its own application and how its application met the Regulations.
- 6.17 The Committee further noted the comments from the Applicant that *“Medscheck Ltd previously held a compliant DSP contract demonstrating operational understanding and compliance.”* The Committee was again mindful that each application is considered on its own merits, based on the information that it has before it and, whilst a previous contract may have been granted, it would be unfair to treat the Applicant differently to those applicants who had not previously held contracts.
- 6.18 The Committee therefore proceeded to consider the instant application which was before it and 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 appeal. The Committee has sought evidence within the application and appeal in order to satisfy itself that it is appropriate to grant the application, the absence of which would require it to reject it.
- 6.19 In respect of uninterrupted provision of services, the Committee noted that the Commissioner *“was not satisfied that there would be uninterrupted provision of essential services, during the opening hours of the premises...”*
- 6.20 The Committee noted that the Applicant, on appeal, states *“the application included ... confirmation of uninterrupted remote services and undertakings to provide SOPs.”* The Committee noted that the application form stated *“The website, App and all other digital platforms for communication will be available uninterrupted at least during the opening hours of the premises.”* The Committee noted that the Applicant had not expanded upon this in its appeal.
- 6.21 The Committee was mindful that the uninterrupted provision of services was greater than patients being able to communicate with the pharmacy and noted that no information had been provided by the Applicant with regard to the Responsible Pharmacist and how they would ensure that essential services would be available without disruption.
- 6.22 The Committee was of the view that it was not clear how essential services would be provided. Based on the lack of information before it, the Committee was not satisfied that the provision of services would be without interruption.
- 6.23 The Committee noted the statement from the Applicant that *“Essential services will be provided remotely through the deployment of an approved Website and*

Patient App such as to enable any patient anywhere in England to request NHS Essential services without a face to face contact...

6.24 The Committee noted that there was no further reference in either the application form or on appeal as to how the Applicant was going to ensure that essential services would be available to any patient anywhere in England. The Committee noted that there was no information provided as to how the Applicant would receive prescriptions or how patients would receive any medication which was dispensed.

6.25 Based on the information before it, the Committee was not satisfied that the provision of essential services would be available to persons anywhere in England.

6.26 The Committee noted the comment from the Applicant in the application form as to what would happen if a member of staff received a query requesting the provision of essential services face to face or in the vicinity of the premises. The Applicant had gone on to state:

6.26.1 *"Inform the person that no face-to-face contact may occur between the patient or their representative and any member of staff.*

Provide the person with a copy of our patient information leaflet that explains what services the pharmacy provides and why they cannot be carried out face-to-face.

Refer the person to the Responsible Pharmacist if they require any further explanation.

Establish where the person is located in England and which services they require.

Explain that due to NHS Regulations we are unable to provide face-to-face provision of NHS Essential Services.

Use the NHS Choices website to find suitable service providers near to the patient and offer them their details to contact them (note this is not "signposting" as an NHS service and is simply providing proper patient care in accordance with GPhC standards)."

6.27 The Committee noted the contradiction in the application form with regard to advanced services in that the Applicant had stated that they would not be providing any but had then gone on to state *"Only advanced services that can be provided remotely will be provided"*. The Committee was of the view that it was ambiguous with regard to the services that the Applicant was proposing to offer. However, based on the information provided, the Committee was of the view that the Applicant would not be able to provide any advanced or enhanced services at the premises.

6.28 The Committee was mindful 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.

- 6.29 The Committee was of the view, based on the information before it, that the provision of pharmaceutical services would be without face to face contact.
- 6.30 The Committee went on to consider whether safe and effective provision of pharmaceutical services was likely to be secured.
- 6.31 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.
- 6.32 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:
- 6.32.1 Dispensing of drugs and appliances
 - 6.32.2 Urgent supply without a prescription
 - 6.32.3 Preliminary matters before providing ordered drugs or appliances
 - 6.32.4 Providing ordered drugs or appliances
 - 6.32.5 Refusal to provide drugs or appliances ordered
 - 6.32.6 Further activities to be carried out in connection with the provision of dispensing services
 - 6.32.7 Disposal service in respect of unwanted drugs
 - 6.32.8 Promotion of healthy lifestyles
 - 6.32.9 Prescription linked intervention
 - 6.32.10 Health campaigns
 - 6.32.11 Signposting
 - 6.32.12 Support for self-care
 - 6.32.13 Discharge medicines service
 - 6.32.14 Websites and health promotion zones
- 6.33 The Committee was of the opinion that the procedures adopted by the pharmacy were not likely to secure the safe and effective provision by the Applicant of the following essential services:
- Dispensing of drugs and appliances
- 6.34 The Committee considered whether the Applicant had explained how non-electronic prescriptions will be presented by the patient and how products will be provided.

- 6.35 The Committee noted that no information had been provided by the Applicant as to how non electronic prescriptions would be presented at the pharmacy or how products would be provided to patients. Therefore the Committee was not 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

- 6.36 The Committee considered whether the Applicant had explained how it proposes safely and effectively to receive requests from prescribers for urgent supplies of drugs and appliances.
- 6.37 The Committee noted that the Applicant had made no reference, either in its original application form or on appeal as to how it would safely and effectively receive requests from prescribers for urgent supplies of drugs and appliances.
- 6.38 The Committee was not 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

- 6.39 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.
- 6.40 The Committee noted that there was no information provided by the Applicant as to how the exemption would be obtained from the patient
- 6.41 Given the lack of information the Committee was not satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 7(3) of Schedule 4.
- 6.42 The Committee considered whether the Applicant had explained how charges will be paid and noted that there was no information provided as to how payment was to be taken by the Applicant or how they would ascertain that payment had then been made.
- 6.43 The Committee was not 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

- 6.44 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).
- 6.45 The Committee noted that there was no information provided by the Applicant either in its original application form or on appeal.

- 6.46 Given the lack of information, the Committee was not satisfied that there would be compliance with paragraph 8(1) of Schedule 4.
- 6.47 The Committee noted that the Applicant in response to the question on the application form as to whether they were undertaking to provide appliances stated “*Drug Tariff part IX* *Except items that require measuring or fitting.*” The Committee noted that the Applicant had not provided any further information with regard to appliances and had provided no information regarding signposting for those patients who did require an appliance which may require measuring or fitting. Based on the lack of information before it, the Committee was of the view that it had not been provided with information sufficient to show that there would be compliance with paragraph 8(4) of Schedule 4.
- 6.48 The Committee considered whether the Applicant had explained what containers will be suitable for posted/delivered items.
- 6.49 The Committee noted that the Applicant had provided no information with regard to this aspect of the terms of service in either the original application form or on appeal.
- 6.50 Given the lack of information the Committee was not 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

- 6.51 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 to review the patients treatment.
- 6.52 The Committee noted that no information had been provided either in the original application form, or on appeal.
- 6.53 Therefore, the Committee was not 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

- 6.54 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 a 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.
- 6.55 The Committee noted that there was no mention in the application form or on appeal from the Applicant with regard to how they would provide appropriate advice about the benefits of repeat dispensing.

- 6.56 The Committee was not 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

- 6.57 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.
- 6.58 The Committee noted that there was no information provided by the Applicant either in its original application form or on appeal in respect of the disposal of unwanted drugs.
- 6.59 Given the lack of information, the Committee was not satisfied that there would be compliance with paragraphs 13 – 15 of Schedule 4.

Promotion of healthy lifestyles

- 6.60 The Committee considered whether the Applicant had explained how it will safely and effectively promote healthy lifestyles.
- 6.61 The Committee noted that no information on this had been provided by the Applicant either in the original application form or on appeal.
- 6.62 The Committee was not satisfied that it had been provided with information sufficient to show that there would be compliance with paragraphs 16-18 of Schedule 4.

Prescription linked intervention

- 6.63 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.
- 6.64 The Committee noted that no information had been provided by the Applicant in respect of this aspect of the terms of service. Therefore, the Committee was not satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 17 of Schedule 4.

Health campaigns

- 6.65 The Committee considered whether the Applicant had explained how it will safely and effectively participate in health campaigns, if and to the extent required by the Commissioner.
- 6.66 The Committee was not satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 18 of Schedule 4.

Signposting

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

6.68 Whilst the Committee noted the comments from the Applicant in the original application form with regard to signposting, it noted that this was specifically with regard to finding suitable service providers for patients who had attended the pharmacy and were requesting the provision of essential services in a face to face setting. The Committee noted that no further information regarding signposting in the context of the terms of service and paragraphs 19-20 had been provided by the Applicant on appeal.

6.69 The Committee was not 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

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

6.71 The Committee noted that no information had been provided either in the original application form, or on appeal.

6.72 Given the lack of information the Committee was not 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

6.73 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 or NHS foundation trust as part of arrangements linked to the transfer of care between different providers of NHS services.

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

6.75 The Committee noted that the Applicant had provided no information either in its original application form, or on appeal with regard to the Discharge Medicines Service. Given the lack of information the Committee was not 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

- 6.76 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.
- 6.77 The Committee noted references by the Applicant that “*Essential services will be provided remotely through the deployment of an approved website ...*” However, the Committee noted that there was no further information provided and no reference to the Applicant’s website including an interactive web page for patients to access nor the services provided by the Applicant.
- 6.78 Given the lack of information the Committee was not satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 28C of Schedule 4.

Summary

- 6.79 On the information before it, the Committee could not be satisfied that there are procedures likely to secure the safe and effective provision of pharmaceutical services as required by Regulation 25(2)(b).
- 6.80 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 6.80.1 confirm the Commissioner’s decision;
 - 6.80.2 quash the Commissioner’s decision and redetermine the application;
 - 6.80.3 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.
- 6.81 Although the Committee reached the same conclusion as the Commissioner it did so for different reasons therefore the Committee determined that the decision of the Commissioner must be quashed.
- 6.82 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.
- 6.83 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.
- 6.84 The Committee concluded that further notification under paragraph 19 of Schedule 2 would not be helpful in this case.

7 Decision

- 7.1 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.
- 7.2 The Committee:
 - 7.2.1 quashes the decision of the Commissioner; and
 - 7.2.2 redetermines the application as follows -
 - 7.2.2.1 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;
 - 7.2.2.2 the Committee was not satisfied that all essential services were likely to be secured without interruption during the opening hours;
 - 7.2.2.3 the Committee was not satisfied that all essential services were likely to be secured for persons anywhere in England;
 - 7.2.2.4 the Committee was not satisfied that pharmaceutical services were likely to be secured in a safe and effective manner; and
 - 7.2.2.5 the Committee was satisfied that pharmaceutical services were likely to be secured without face to face contact.
 - 7.2.3 The application is refused.

Case Manager
Primary Care Appeals