

OFFICIAL: SENSITIVE

10 February 2026

REF: SHA/26777

**APPEAL AGAINST NOTTINGHAM AND
NOTTINGHAMSHIRE ICB DECISION REGARDING
A REMEDIAL NOTICE AT HMW HEALTHCARE
LTD, TRADING AS HOLDENS CHEMIST EXPRESS,
77B ETON AVENUE, NEWARK,
NOTTINGHAMSHIRE, NG24 4JH**

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

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

1 Outcome

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

A copy of this decision is being sent to:

East Midlands Primary Care Team on behalf of Nottingham and Nottinghamshire ICB
HMW Healthcare Ltd t/a Holdens Chemist Express

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1 The Remedial Notice

A Remedial Notice dated 12 November 2025 was sent to HMW Healthcare Ltd t/a Holdens Chemist Express ("the Appellant") in respect of HMW Healthcare Ltd t/a Holdens Chemist Express, 77b Eton Avenue, Newark, Nottinghamshire, NG24 4JH. The Remedial Notice stated:

- 1.1 "Date of inclusion in the pharmaceutical list for the area of: Nottinghamshire Health and Wellbeing board: 29 April 2023
- 1.2 This is a remedial notice issued under regulation 70 of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013
- 1.3 Nature of the breach
- 1.4 Paragraph 35(4), Schedule 4 of the The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 states that the contractor must, at the request of the Integrated care board(ICB) send to the ICB by means of an electronic communication of the type specified in the request any information to which a person authorised in writing by the ICB would have access during an inspection of the pharmacy premises pursuant to sub-paragraph
 - 1.4.1 (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 the ICB to request that the pharmacy convert that information into a form which means that it may be sent by that form of electronic communication (and the ICB does so request).

- 1.5 Following a report to NHS England, an investigation was undertaken into the recording of pregnancy status within the Optum PharmOutcomes IT system for the Pharmacy Contraception and Pharmacy First Services.
- 1.6 The investigation identified multiple pharmacy records where either:
 - 1.6.1 a patient was incorrectly coded as pregnant; or
 - 1.6.2 a patient was correctly coded as pregnant but received an inappropriate supply of medication (where supply should have been excluded).
- 1.7 An NHS England Clinical Advisory Group (CAG), comprising of GPs and pharmacists, reviewed the outcome of the investigation. The CAG confirmed that this represents a patient safety incident requiring urgent action to prevent potential harm to affected patients, and that impacted patients must be informed in line with duty of candour requirements.
- 1.8 The identified pharmacy records were risk assessed into priorities (a copy of the priorities and actions the pharmacies had to take are included in appendix 1).
- 1.9 The pharmacies were contacted and provided with a list of affected patients and provided with instructions on how to deal with each priority including what actions must be taken. As part of the actions, pharmacies were asked to do the following;
 - 1.9.1 Report each incident via the Learn From Patient Safety Events (LFPSE) portal and via the usual local process for pharmacy patient safety incidents and;
 - 1.9.2 inform their ICB pharmacy contracting team when they had completed the actions for all patients impacted.
- 1.10 HMW Healthcare Ltd were contacted via the pharmacy specific nhs mail address, or an alternative email address were given, on 3 occasions (27 June 2025, 07 August 2025 and 29 August 2025), however the pharmacy has failed to provide the ICB with the information and has not provided a reason why.
- 1.11 The East Midlands Primary Team therefore referred this matter of non-compliance to the Pharmaceutical Services Regulations Committee on 10 October 2025. The PSRC found the pharmacy to be in breach of the terms of service for failure to provide assurance that they had reported the incident via the Learn From Patient Safety Events (LFPSE) portal and via the usual local process for pharmacy patient safety incidents and inform their ICB pharmacy contracting team when they had completed the actions for all patients impacted.
- 1.12 The Pharmaceutical Services Regulations Committee have therefore found HMW Healthcare Ltd, Trading as Holdens Chemist Express, 77b Eton Avenue, Newark, Nottinghamshire, NG24 4JH (FEJ84) to be in breach under regulation 70 in respect of the breach of Paragraph 35, Schedule 4 of the NHS

(Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (the 2013 regulations).

- 1.13 Steps you are required to take, to our satisfaction, in order to remedy the breach:
- 1.14 The East Midlands Primary Care Team require the pharmacy to confirm the following in writing to england.eastmidsparmacy@nhs.net
 - 1.14.1 That all actions have been completed for all patients impacted.(See appendix 1 for priorities and actions)
 - 1.14.2 That the incident has been reported via the Learn From Patient Safety Events (LFPSE) portal and via the usual local process for pharmacy patient safety incidents
- 1.15 The required steps must be completed by: 24 December 2025, 30 days from the date of the covering letter.
- 1.16 You have a right of appeal to the Secretary of State against the issuing of this remedial notice. Should you choose to appeal then you should send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this notice to nhsr.appeals@nhs.net or:
- 1.17 Primary Care Appeals Case Manager, NHS Resolution , 8th Floor 10 South Colonnade, Canary Wharf, London, E14 4PU
- 1.18 Please note that should you fail to comply with the requirements of this remedial notice the commissioner reserves the right to exercise our powers to take further action in relation to your inclusion in the pharmaceutical list in respect of the above named premises. This may include removal of the premises from the pharmaceutical list under regulation 73 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.
- 1.19 Dated: 12 November 2025

Appendix 1- Priorities and actions

- 1.20 Priority 1: The pharmacy record states the patient is pregnant and medication has been supplied under the Pharmacy Contraception service or a Pharmacy First Clinical Pathway, and:
 - 1.20.1 The record has been shared with the patient's registered GP via GP Connect Update Record; or
 - 1.20.2 The record has been shared with the patient's registered GP via NHSmail.
- 1.21 Priority 2: The pharmacy record states the patient is pregnant and a medication has been supplied/sold following a Pharmacy First Minor Illness pathway consultation e.g. over the counter medicines sale or supply via a locally

commissioned service. The record has been shared with the patient's registered GP via GP Connect Update Record.

- 1.22 Priority 3: All other records where the pharmacy record states the patient is pregnant for the Contraception and Pharmacy First services."

2 The Appeal

In a letter dated 12 November 2025 addressed to NHS Resolution, the Appellant appealed against Nottingham and Nottinghamshire ICB's ("the Commissioner") decision. The grounds of appeal are:

2.1 "Introduction

2.2 I, AH, Superintendent Pharmacist and Director of HMW Healthcare Ltd (FEJ84), hereby submit this appeal to the Secretary of State against the Remedial Notice issued by the East Midlands Primary Care Team on 12 November 2025, acting on behalf of the five East Midlands Integrated Care Boards (ICBs).

2.3 This appeal is made within the 30-day period stipulated in the notice, in accordance with the provisions of Regulation 70 and Schedule 4 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

2.4 Grounds for Appeal

2.5 (a) Failure of Proper Notification and Procedural Fairness

2.6 The remedial notice cites three ICB communications allegedly sent to the contractor on 27 June, 7 August, and 29 August 2025, requesting information and actions relating to pregnancy-coded records within Optum PharmOutcomes.

2.7 However, HMW Healthcare Ltd never received any of these communications via our official NHS mail address (pharmacy.fej84@nhs.net), which is the sole registered contact for this pharmacy and is actively monitored daily.

2.8 Upon investigation, it was confirmed that the emails were instead sent to pharmacy.ff391@nhs.net, an unrelated mailbox belonging to another entity. This is a critical error which deprived the contractor of a fair opportunity to comply with the ICB's instructions and directly led to the finding of noncompliance.

2.9 (b) Potential Data Protection Breach

2.10 The mis-addressing of emails and disclosure of patient identifiable information to an unaffiliated NHS mailbox constitutes a potential data breach under the UK GDPR and the Data Protection Act 2018.

2.11 We request that NHS England and/or the East Midlands ICB investigate this incident as a confidentiality breach, and that we be kept informed of the actions

taken to contain and report this event via the appropriate NHS Information Governance procedures.

- 2.12 (c) Good Faith Compliance and Remediation Underway
- 2.13 Upon receiving the Remedial Notice of 12 November 2025, we immediately commenced a full internal review of records within Optum PharmOutcomes and have begun to:
 - 2.13.1 Verify all records coded as “pregnant” under the Pharmacy Contraception and Pharmacy First services.
 - 2.13.2 Cross-check each record against consultation notes and GP communications to confirm accuracy and appropriate supply.
 - 2.13.3 Report any identified incidents via the Learn From Patient Safety Events (LFPSE) portal and our local incident process.
- 2.14 We intend to fully complete these steps and provide documented assurance to the ICB.
- 2.15 (d) Request for Extension of Remedial Deadline
- 2.16 Given that the failure to comply arose solely from an administrative error on the part of the ICB and that we have acted immediately since becoming aware of the notice, we respectfully request that the remedial deadline be extended by 30 days (to 24 January 2026) to allow completion of the verification and reporting process.
- 2.17 Supporting Evidence (Attached)
 - 2.17.1 Email trace and screenshot evidence showing no correspondence received to pharmacy.fej84@nhs.net on the dates specified.
 - 2.17.2 Copy of the Remedial Notice dated 12 November 2025 stating the incorrect Email address pharmacy.ff391@nhs.net
 - 2.17.3 Copies of all related communications sent to and from the East Midlands Primary Care Team
- 2.18 Relief Sought
- 2.19 We respectfully request that the Secretary of State, via NHS Resolution, consider the following remedies:
 - 2.19.1 That the Remedial Notice issued on 12 November 2025 be set aside or varied, on grounds of procedural defect and lack of proper notification.
 - 2.19.2 That the remedial deadline be extended by 30 days to 24 January 2026 to permit completion of verification and reporting actions.

2.19.3 That the East Midlands ICB be required to report and contain the data breach arising from the transmission of patient information to the incorrect NHS mailbox and to notify us of the steps taken to remedy this breach.

2.20 Conclusion

2.21 HMW Healthcare Ltd has at all times acted in good faith and remains fully committed to compliance with its contractual and clinical governance obligations. The error in notification was entirely outside our control and has caused an unfair finding of non-compliance and the potential disclosure of sensitive patient data to a third party.

2.22 We respectfully request that the Secretary of State consider this appeal and grant the relief outlined above.”

3 Summary of Representations

This is a summary of representations received on the appeal.

3.1 The Commissioner

3.1.1 “Thank you for your email, please see below responses in red and attached evidence of email correspondence to Pharmacy.fej84@nhs.net

3.1.2 (a) Failure of Proper Notification and Procedural Fairness

3.1.3 The remedial notice cites three ICB communications allegedly sent to the contractor on 27 June, 7 August, and 29 August 2025, requesting information and actions relating to pregnancy-coded records within Optum PharmOutcomes.

3.1.4 However, HMW Healthcare Ltd never received any of these communications via our official NHS mail address (pharmacy.fej84@nhs.net), which is the sole registered contact for this pharmacy and is actively monitored daily.

3.1.5 *Please see attached email dated 29 August 2025, as the email is sent in bulk to all relevant pharmacies, I have had to redact the other pharmacies addresses. The details that were provided with the attached email as an attachment were as follows:*

3.1.6 Appendices 1 – copy of the emails sent to Pharmacy contractors affected by the patient incident pregnancy PEMs in the East Midlands 1ST EMAIL

3.1.7 Sent on 27 June 2025 (initial notification). Please note that the attachment is the original letter sent by NHSBSA which was attached with each email from the EMPCT.

3.1.8 Dear Pharmacy Team,

- 3.1.9 This is a reminder that urgent action is required by 18 August 2025 in response to a patient safety incident involving mis-coded records relating to the Pharmacy Contraception and Pharmacy First Services.
- 3.1.10 You received communication in June from the NHS Business Services Authority regarding this patient safety incident and have not confirmed to the ICB Pharmacy Contract team that action has been completed.
- 3.1.11 Affected pharmacies were contacted in June via email from pharmacysupport@nhsbsa.nhs.uk, and provided with pharmacy-specific records and instructions. The subject title of the email was
- 3.1.12 Subject: Patient Safety Incident – Pregnancy documentation in Pharmacy IT system for Pharmacy First and Contraception Services
- 3.1.13 Required Actions (to be completed by 18 August 2025):
- 3.1.13.1 Review the records identified in the PharmOutcomes system using the service provision ID.
- 3.1.13.2 Contact patients to confirm pregnancy status and take appropriate action:
- 3.1.13.2.1 Amend records if the patient was not pregnant.
- 3.1.13.2.2 Advise and refer if the patient was pregnant and received medication.
- 3.1.13.3 Report each incident via the Learn from Patient Safety Events (LFPSE) portal and your local reporting process.
- 3.1.13.4 Notify your ICB pharmacy contract team once all actions are completed:
- 3.1.13.4.1 West Midlands: nhsbsolicb.pharmacy-westmidlands2@nhs.net
- 3.1.13.5 East Midlands: england.eastmidspharmacy@nhs.net
- 3.1.14 Please refer to the attached letter for full guidance, including FAQs and communication tips for engaging with patients and GP practices.
- 3.1.15 If you have any questions or require support, please consult the PharmOutcomes Help Centre or contact your ICB pharmacy team.
- 3.1.16 Thank you for your prompt attention to this important matter.
- 3.1.17 2nd email sent on 07 August 2025 (reminder)-the email wording same as the above
- 3.1.18 3rd email sent on 29 August 2025 (final reminder)

- 3.1.19 Dear colleague,
- 3.1.20 You were previously contacted by NHSE and following this we emailed you on the 07/08/2025 to ask that you undertake the required actions as attached by request of NHSE.
- 3.1.21 Our records show that to date this work has not been completed or you have not confirmed to us that this has been completed. The deadline for completion has now passed.
- 3.1.22 Please note if we do not receive confirmation by a final allowable date of 05/09/2025 we will be escalating this to potential contractual action for non-conformance with the request.
- 3.1.23 If you have any queries or think this action has been completed already please reach out directly by way of response to this email.
- 3.1.24 Upon investigation, it was confirmed that the emails were instead sent to pharmacy.ff391@nhs.net, an unrelated mailbox belonging to another entity. This is a critical error which deprived the contractor of a fair opportunity to comply with the ICB's instructions and directly led to the finding of noncompliance.
- 3.1.25 *The Contractor mentions above that emails were sent to pharmacy.ff391@nhs.net however, this is not correct as the remedial notice issued and the cover letter was prepared by myself, unfortunately I failed to change the email address in the body of the cover letter, however the remedial notice and cover letter were sent to the correct email address of pharmacy.fej84@nhs.net – Evidence attached.*
- 3.1.26 (b) Potential Data Protection Breach
- 3.1.27 The mis-addressing of emails and disclosure of patient identifiable information to an unaffiliated NHS mailbox constitutes a potential data breach under the UK GDPR and the Data Protection Act 2018.
- 3.1.28 We request that NHS England and/or the East Midlands ICB investigate this incident as a confidentiality breach, and that we be kept informed of the actions taken to contain and report this event via the appropriate NHS Information Governance procedures.
- 3.1.29 *Please see response above no data breach as sent to correct email address.*
- 3.1.30 (c) Good Faith Compliance and Remediation Underway
- 3.1.31 Upon receiving the Remedial Notice of 12 November 2025, we immediately commenced a full internal review of records within Optum PharmOutcomes and have begun to:
- 3.1.31.1 Verify all records coded as “pregnant” under the Pharmacy Contraception and Pharmacy First services.

- 3.1.31.2 Cross-check each record against consultation notes and GP communications to confirm accuracy and appropriate supply.
- 3.1.31.3 Report any identified incidents via the Learn From Patient Safety Events (LFPSE) portal and our local incident process.
- 3.1.32 We intend to fully complete these steps and provide documented assurance to the ICB. – *still awaiting evidence of completion*
- 3.1.33 (d) Request for Extension of Remedial Deadline
- 3.1.34 Given that the failure to comply arose solely from an administrative error on the part of the ICB and that we have acted immediately since becoming aware of the notice, we respectfully request that the remedial deadline be extended by 30 days (to 24 January 2026) to allow completion of the verification and reporting process.
- 3.1.35 *Unfortunately, we cannot allow a time extension as reminders have been sent to the pharmacy before the issuing of the remedial to take action, the remedial actions need to be completed within the timeframe specified on the remedial notice.*
- 3.2 The Appellant submitted the following email request to NHS Resolution on 9 January 2026, within the representations period:
 - 3.2.1 “I notice [the Commissioner] has not provided any proof of the original Emails sent on the dates she proposes in July and August, she has only provided the email proof of the email with the remedial notice in November.
 - 3.2.2 Please can you enquire if she has such proof. Also I have still not received the list of affected patients.
 - 3.2.3 If possible she can forward those original emails on to you (which will be date stamped) and you can check if pharmacy.fej84@nhs.net was included.”
- 3.3 The Commissioner provided a copy of the emails to NHS Resolution and these were circulated to the Appellant allowing the chance to comment. No subsequent comments were received.

4 Observations

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

5 Consideration

- 5.1 Under Regulation 70(1) “Breaches of terms of service: remedial notices” of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”), a remedial notice may be issued:

70. (1) Where an NHS chemist (C) breaches a term of service and the breach is capable of remedy, NHS England may by a notice (“a remedial notice”) require C to remedy 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);”

5.3 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;”

5.4 The Regulations contain no definition as to what constitutes a breach of terms of service which is not capable of remedy.

5.5 I note that the pharmacy is included on the pharmaceutical list and that there is no dispute between the parties with regard to this.

5.6 The Remedial Notice was issued pursuant to Regulation 70 and is compliant with the requirements of a remedial notice as it includes the nature of the breach and an explanation of the Appellant’s right of appeal under regulation 77(1)(c).

5.7 I note in its representations the Commissioner states that following a report to NHS England, it emailed the Appellant on 27 June 2025 and 7 August 2025 with a further email sent on 29 August 2025, requesting it to submit a review and report concerning the “*recording of pregnancy status within the Optum PharmOutcomes IT system for the Pharmacy Contraception and Pharmacy First Services.*” The deadline given to submit the review outcome was 18 August 2025.

5.8 The Remedial Notice states:

5.8.1 *“the pharmacy has failed to provide the ICB with the information and has not provided a reason why.*

...

The PSRC found the pharmacy to be in breach of the terms of service for failure to provide assurance that they had reported the incident via the Learn From Patient Safety Events (LFPSE) portal and via the usual local process for pharmacy patient safety incidents and inform their ICB pharmacy contracting team when they had completed the actions for all patients impacted.

The Pharmaceutical Services Regulations Committee have therefore found HMW Healthcare Ltd, Trading as Holdens Chemist Express, 77b Eton Avenue, Newark, Nottinghamshire, NG24 4JH (FEJ84) to be in breach under regulation 70 in respect of the breach of Paragraph 35,

Schedule 4 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (the 2013 regulations)."

- 5.9 I have been provided with copies of the cover emails dated 7 August 2025 and 29 August 2025. I have not been provided with a copy of the email dated 27 June 2025. In the email dated 29 August 2025, the Commissioner states that if confirmation was not received by 5 September 2025, the matter would be escalated to potential contractual action for non-conformance.
- 5.10 Given the findings I make below, I am satisfied 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 resolution has been exhausted I am content that I can deal with this matter.
- 5.11 The Appellant seeks to appeal against the decision of the Commissioner to issue the Remedial Notice for its failure to provide the requested information in response to the Commissioner's emails dated 27 June 2025, 7 August 2025 and 29 August 2025.
- 5.12 The Appellant states in its appeal that the Remedial Notice refers to three communications allegedly sent on 27 June, 7 August, and 29 August 2025, *"requesting information and actions relating to pregnancy coded records within the Optum PharmOutcomes system."* The Appellant contends that HMW Healthcare Ltd did not receive any of these communications via its official NHSmail address (pharmacy.fej84@nhs.net), *"which is the sole registered contact for the pharmacy and is monitored daily."*
- 5.13 I note, however, that the Commissioner has provided copies of the covering emails addressed to the pharmacy specific email address (pharmacy.fej84@nhs.net), and that the Appellant did not submit any further comments after being given the opportunity to respond to those emails.-
- 5.14 It is not disputed that the Appellant failed to submit the required information within the deadlines set by the Commissioner, notwithstanding its assertion that the emails from the Commissioner were not received. The information provided by the Appellant demonstrates that the cover letter issued to HMW Healthcare Ltd contained an incorrect email address relating to another pharmaceutical premises. However, the Commissioner has explained in its representations that, although the email address in the body of the cover letter was incorrect, both the emails sent prior to the issuance of the Remedial Notice and the Remedial Notice itself with accompanying cover letter were sent to the correct email address, namely pharmacy.fej84@nhs.net. Copies of the covering emails have been provided by the Commissioner and circulated to the Appellant for comment.
- 5.15 Under Regulation 70 of the Regulations, a Remedial Notice may be issued:

“70(1) Where an NHS chemist (C) breaches a term of service and the breach is capable of remedy, the NHSCB may by a notice (“a remedial notice”) require C to remedy the breach.”

- 5.16 I consider that both remedial and breach notices carry the same weight in terms of severity of possible consequence, with the difference being that a remedial notice requires the remedy of the breach, and the breach notice requires an NHS chemist to not repeat the breach.
- 5.17 Given that the Appellant did not provide the requested information or evidence, and still has not by all accounts, relating to the recording of pregnancy status within the Optum PharmOutcomes IT system for the Pharmacy Contraception and Pharmacy First Services within the timescale specified by the Commissioner, I am satisfied that it was appropriate, at the time the Remedial Notice was issued, to require the Appellant to remedy the breach.
- 5.18 As a result of the above, I do not find any procedural unfairness in how the Commissioner handled this matter and any alleged data breach falls away as the emails were sent to the correct email address.

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 Remedial Notice dated 12 November 2025.

**Head of Appeals
NHS Resolution**