

16 February 2026

REF: SHA/ 26779

**APPEAL AGAINST DEVON ICB DECISION
REGARDING A BREACH NOTICE AT 19A HIGH
STREET, CREDITON, EX17 3AH**

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.

A copy of this decision is being sent to:
Crediton Pharmacy Ltd t/a Crediton Pharmacy
NHS South West Collaborative Commissioning Hub on behalf of Devon ICB

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1 The Breach Notice

A Breach Notice dated 12 November 2025 was sent to Crediton Pharmacy Ltd t/a Crediton Pharmacy ("the Appellant") in respect of 19A High Street, Crediton EX17 3AH

- 1.1 "I am writing to inform you that at its meeting on Monday 08 September 2025, the South West Pharmaceutical Services Regulations 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 Devon ICB (the Commissioner).
- 1.2 This is in response to not submitting a return for the Community Pharmacy Workforce Survey by the deadline of midnight 11 December 2024. This requirement to complete the survey was highlighted to the above pharmacy on numerous communications, via email, to the pharmacy shared NHSmail account.
- 1.3 The decision was made by the SW Committee, in line with your Terms of Service for NHS Pharmacists, under Schedule 4, Part 4, Paragraph 28(2)(e)(iia), to issue the attached Breach Notice, under regulation 71 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended.
- 1.4 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](#)."

Breach Notice

- 1.5 **"Name of Contractor: Crediton Pharmacy Ltd t/a Crediton Pharmacy (FE795)**
- 1.6 **Address of Premises: 19a High Street, Crediton, EX17 3AH (The Contractor)**
- 1.7 This is a Breach Notice issued by the Devon Integrated Care Board (ICB), referred to as the Commissioner in this Breach Notice, under regulation 71 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (The Regulations). Issue of this Notice has been considered and approved by the NHS South West Pharmaceutical Services Regulations Committee ("the SW Committee").

1.8 Nature of the Breach Notice

- 1.9 Contrary to Schedule 4 Part 4 paragraph 28(2)(e)(iiia) of The Regulations, the Contractor did not submit a response to the Community Pharmacy Workforce Survey for the above pharmacy by the deadline at midnight on 11 December 2024.

1.10 Statement of Reasons

- 1.11 The Community Pharmacy Workforce Survey was open for completion from 16 October 2024 to midnight 11 December 2024.

- 1.12 On 14 October 2024, the above pharmacy was emailed by the NHSBSA, via pharmacy.fe795@nhs.net, with information on how to complete the survey and confirming the deadline for submission.

- 1.13 A further two reminders were sent by the NHSBSA, by the same means as above, on:

1.13.1 09 December 2024

1.13.2 11 December 2024

- 1.14 There were also reminders in the NHS South West Collaborative Commissioning Hub Pharmacy Bulletin, where the deadline of midnight 11 December 2024 was reiterated. Bulletins with reminders were sent, by the same means as above, on the following dates:

1.14.1 29 October 2024

1.14.2 28 November 2024

- 1.15 Despite the reminders, the Community Pharmacy Workforce Survey was not submitted by the pharmacy by the midnight 11 December 2024 deadline.

- 1.16 The SW Committee determined to issue Breach Notices for all contractors who did not submit their Workforce Survey by the deadline of 11th December 2024.

- 1.17 The decision was made by the SW Committee, in line with the Terms of Service for NHS Pharmacists under Schedule 4, Part 4, Paragraph 28(2)(e)(iiia) of the Regulations.

- 1.18 In deciding this, the SW Committee emphasised this is not an administrative nicety but a statutory requirement that supports workforce planning across the NHS. The SW Committee noted that multiple reminders and opportunities had been given to the Contractor. It was agreed that failing to comply demonstrated poor governance and disregard for professional obligations.

- 1.19 The SW Committee approved the issuing of a Breach Notice under Regulation 71 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, for failure to complete the 2024 Workforce Survey.

1.20 **Action Required**

1.21 The Contractor is required not to repeat the breach.

1.22 **Community Pharmacy Local**

1.23 Should you require any additional support and assistance separate from the commissioner regarding this breach notice please contact your Community Pharmacy Local (CPL); details of your local CPL can be found [here](#).

1.24 **Right of Appeal**

1.25 You have a right of appeal to the Secretary of State against the issuing of this Breach Notice and any related payment withholding. Should you choose to appeal, you should send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to:

1.25.1 NHS Resolution 8th Floor
10 South Colonnade Canary Wharf London
E14 4PU
Email: nhsr.appeals@nhs.net.

2 **The Appeal**

In an email dated 13 November 2025 addressed to NHS Resolution, the Appellant appealed against Dorset ICB (“the Commissioner”) decision. The grounds of appeal are:

2.1 “We write in response to the Breach Notice issued in relation to the 2024 Community Pharmacy Workforce Survey for Crediton Pharmacy.

2.2 First and foremost, we wish to express our sincere apologies for the oversight in failing to submit the Workforce Survey by the deadline of 11 December 2024. We recognise the importance of the survey and the role it plays in supporting NHS workforce planning.

2.3 **Submissions**

2.4 Crediton Pharmacy changed ownership on 1st November 2024, only a month before the survey deadline in 2024. The transition period was extremely busy and operationally challenging, and the new owners took over responsibility for all aspects of the business at short notice.

2.5 At the time of handover, the new owners reasonably believed that the outgoing owners, who had been responsible for the pharmacy when the survey period had started, had either completed the statutory survey, or would do so before completion of the sale, given their ongoing contractual responsibilities up until the handover date. Unfortunately, it has become apparent to us now that the previous owners did not submit the survey.

2.6 **Steps taken**

2.6.1 Updated compliance calendars and internal reminders

- 2.6.2 Allocation of responsibility to a specific member of the team-
- 2.6.3 A visual reminder in the pharmacy to monitor for communications received from NHSBSA and ICB.
- 2.7 We assure you that this breach occurred solely due to the unusual circumstances of the ownership transition and not due to a disregard or unwillingness to comply.
- 2.8 **Request for consideration**
- 2.9 We respectfully ask the committee to take into account:
 - 2.9.1 The change of ownership towards the end of the 2024 window for submission of the survey
 - 2.9.2 The fact that the survey period started within the time the previous owner had legal responsibility for the pharmacy
 - 2.9.3 The operational pressures inherent in taking over a pharmacy
 - 2.9.4 The new owner's commitment to compliance going forward
- 2.10 We regret the oversight and reiterate our commitment to meeting all NHS contractual requirements moving forward, including completion and submission of the 2025 survey (which has already been done) by the deadline this year.
- 2.11 Thank you for taking the time to review our submission."

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 letter dated 19 November 2025, inviting representation in response to the appeal received against the decision made by the South West Pharmaceutical Services Regulations Committee (SW Committee) on behalf of NHS Devon Integrated Care Board, (the ICB) to issue a breach to Crediton Pharmacy (FE795) referred as the 'Contractor'.
 - 3.1.2 Please can I ask you to treat the attached, as part of the ICBs representations on this appeal:
 - 3.1.2.1 Appendix 1 – FE795 Breach Notice
 - 3.1.2.2 Appendix 2 – September PSRC Committee Report Excerpt
 - 3.1.2.3 Appendix 3 – NHSBA Confirmation of reminders
 - 3.1.2.4 Appendix 4 – SW CCHub October Bulletin

3.1.2.5 Appendix 5 – SW CCHub November Bulletin

- 3.1.3 The SW Committee on behalf of the Devon ICB, wishes to make the following comments on the appeal:
- 3.1.4 The SW Committee confirms that the decision to issue the Breach Notice (**Appendix 1**) was made in accordance with NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, Schedule 4, Paragraph 24 and Schedule 4, Paragraph 28(2)(e)(iia) (**Appendix 2**).
- 3.1.5 The survey has been mandatory since laid out by the Department of Health and Social Care (DHSC) from 1st October 2022 which require pharmacy contractors to complete an annual workforce survey.
- 3.1.6 The Community Pharmacy Workforce Survey was open for completion from 16 October 2024 to midnight 11 December 2024. On 14 October 2024, the Contractor was emailed by the NHSBSA, via pharmacy.FE795@nhs.net, with information on how to complete the survey and the deadlines. A further two reminders were sent by the NHSBSA, by the same means, on 09 December 2024 and 11 December 2024 (**Appendix 3**).
- 3.1.7 Additionally, there were reminders in the NHS South West Collaborative Commissioning Hub Pharmacy Bulletin where the deadline of midnight 11 December 2024 was reiterated. Bulletins with the reminders were sent to pharmacy.FE795@nhs.net, on 29 October 2024 (**Appendix 4, page 3**) and 28 November 2024 (**Appendix 5, page 5**). As no submission was received by the Contractor in relation to Crediton Pharmacy before the deadline, a breach notice was issued as the survey could no longer be completed.
- 3.1.8 In the appeal letter the Contractor discussed the change of ownership on 01 November 2024, reflecting that the transition period was extremely busy and operationally challenging. The Committee considers this to be an operational matter, rather than contractual, with the two parties undertaking due diligence and ensuring service requirements are met or handed over.
- 3.1.9 The appeal letter continues by discussing how the Contractor believed that the outgoing owners would complete the survey and asks to consider “the fact that the survey period started within the time the previous owner had legal responsibility for the pharmacy”. However, a review of the ODS Data Search and Export Tool (www.odsdatabsearchandexport.nhs.uk) shows that the Contractor, Crediton Pharmacy Ltd, has owned the pharmacy since 27 May 2015.
- 3.1.10 An application for a new Superintendent and Director was submitted with an appointed date of 12/11/2024: from then, ownership transferred to new individuals, however there was no change of the body corporate during this time. This means the NHSmail account for

pharmacy.FE795@nhs.net remained the same, as there was no change of ODS code and the reminders would have been received throughout the transition period.

3.1.11 The SW Committee appreciates the pressures facing community pharmacies, and sympathises with the Contractor, however, it is of the view that the Contractor had sufficient time to complete the annual workforce survey. Although corrective measures have since been put in place, the SW Committee maintains the decision to issue the breach notice to the Contractor was justified and necessary and requests that the appeal be rejected.”

3.1.12 [Enclosures provided]

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 Under Regulation 69(1), before issuing a breach notice, the Commissioner must:

5.5.1 “make every reasonable effort to communicate and co-operate with an NHS Chemist (C) with a view to resolving any dispute between [the chemist] and NHS England relating to [the chemist’s] compliance with [the chemist’s] terms of service.”

- 5.6 The Regulations contain no definition of what constitutes "*reasonable effort to communicate and co-operate*". I note that the Commissioner sent reminder emails and published reminders in the NHS South West Collaborative Commissioning Hub Pharmacy Bulletin requiring contractors complete the Community Pharmacy Workforce Survey. I note that the Appellant has not referred to the lack of local dispute resolution in its appeal. I therefore determine that there is no failure with regard to Regulation 69.
- 5.7 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).
- 5.8 I note the Breach Notice states that:
- 5.8.1 *"Contrary to Schedule 4 Part 4 paragraph 28(2)(e)(iia) of The Regulations, the Contractor did not submit a response to the Community Pharmacy Workforce Survey for the above pharmacy by the deadline at midnight on 11 December 2024."*
- 5.9 I note that Schedule 4, Part 4, paragraph 28(2)(e)(iia) states that:
- Clinical governance and the promotion of healthy living*
- 28.—(1) *An NHS pharmacist (P) must, in connection with the pharmaceutical services provided by P, participate, in the manner reasonably required by NHS England, in an acceptable system of clinical governance and for the promotion of healthy living.*
- (2) *For these purposes a system of clinical governance and for the promotion of healthy living is "acceptable" if it is considered acceptable by NHS England and comprises the following components—*
- ...
- (e) *a staffing and staff management programme, which includes—*
- ...
- (iia) *a requirement that P undertakes an approved workforce survey annually, in an approved manner*
- 5.10 The Commissioner states that "On 14 October 2024, the above pharmacy was emailed by the NHSBSA, via pharmacy.fe795@nhs.net, with information on how to complete the survey and confirming the deadline for submission. A further two reminders were sent by the NHSBSA, by the same means as above, on: 09 December 2024 [and] 11 December 2024. There were also reminders in the NHS South West Collaborative Commissioning Hub Pharmacy Bulletin, here the deadline of midnight 11 December 2024 was reiterated. Bulletins with reminders were sent, by the same means as above, on the following dates: 29 October 2024 [and] 28 November 2024."

- 5.11 I note that the Appellant does not dispute that it did not submit a response to the Community Pharmacy Workforce Survey by midnight on 11 December 2024. It states that *“Crediton Pharmacy changed ownership on 1st November 2024, only a month before the survey deadline in 2024. The transition period was extremely busy and operationally challenging, and the new owners took over responsibility for all aspects of the business at short notice. At the time of handover, the new owners reasonably believed that the outgoing owners, who had been responsible for the pharmacy when the survey period had started, had either completed the statutory survey, or would do so before completion of the sale, given their ongoing contractual responsibilities up until the handover date. Unfortunately, it has become apparent to us now that the previous owners did not submit the survey.”*
- 5.12 In response, the Commissioner states that *“a review of the ODS Data Search and Export Tool...shows that the Contractor, Crediton Pharmacy Ltd, has owned the pharmacy since 27 May 2015. An application for a new Superintendent and Director was submitted with an appointed date of 12/11/2024: from then, ownership transferred to new individuals, however there was no change of the body corporate during this time. This means the NHSmail account for pharmacy.FE795@nhs.net remained the same, as there was no change of ODS code and the reminders would have been received throughout the transition period”*. I note that the Appellant has not disputed the Commissioner’s comments.
- 5.13 Schedule 4, Part 4, paragraph 29C states:
- Contact via NHSmail, pharmacy profiles and the Central Alerting System*
- 29C.-(1) An NHS pharmacist (P) must ensure that pharmacy staff at pharmacy premises (including locums) have access to, and are able to send and receive NHSmail from, a premises specific NHSmail account.*
- (2) P must ensure that at least two members of the pharmacy staff have live, linked NHSmail accounts to the premises specific NHSmail account (unless fewer than two members of the pharmacy staff are engaged in the provision of NHS services).*
- 5.14 Given the above terms of service, it is clear that the Appellant has a responsibility to ensure that its NHS mailbox is both accessible and monitored by more than one member of staff as indicated. The Regulations do not allow for any discretion on these terms of service in the case of a change of ownership or change of directors and/or superintendent pharmacists, as is the case in this matter. Further, despite the Appellant stating that it assumed that the survey had been completed by the former owners, I note that reminders continued to be sent to its NHS mailbox after 1 November 2024 which should have indicated to the Appellant that completion of the survey was still outstanding.
- 5.15 I have had regard to the steps the Appellant has taken as a result of the Breach Notice and that it confirms it has completed the 2025 survey before the deadline. Whilst commendable, I am of the view that the Appellant’s failure to

complete the Community Pharmacy Workforce Survey when requested to do so constitutes a breach of the Appellant's terms of service as set out in paragraph 28(2)(e)(iia) of Schedule 4 to the Regulations.

- 5.16 I next consider whether the failure to complete the Community Pharmacy Workforce Survey is a breach which is capable of remedy. As noted in paragraph 5.3 above, the Regulations do not contain a definition as to what constitutes a breach of terms of service which is or is not capable of remedy. A common-sense interpretation is that a breach is unable to be rectified.
- 5.17 I note the comments in the September PSRC Committee Report Excerpt, provided with the Commissioner's representations that *"Every community pharmacy contractor must submit an annual workforce survey for each year. The survey asks questions about the number and fulltime equivalent (FTE) of ten different types of staff (including pharmacists, trainee pharmacists, pharmacy technicians, dispensing assistants, medicines counter assistants and delivery drivers). The survey also asks about any trainees in the pharmacy and employee demographics"*. I further note the wording of the Regulations; *"P undertakes an approved workforce survey annually"*. It is therefore clear that the intention is that an approved workforce survey is completed annually. As the survey in question was in relation to 2024, the breach is incapable of remedy as this year has passed.
- 5.18 As a result of the comments I make above, I am of the view that:
- 5.18.1 the Appellant did not complete the Community Pharmacy Workforce Survey by the required deadline;
- 5.18.2 such action constitutes a breach of the Appellant's terms of service by virtue of paragraph 28(2)(e)(iia) of Schedule 4 to the Regulations; and
- 5.18.3 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