17 February 2026

REF: SHA/26784

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APPEAL AGAINST BIRMINGHAM AND SOLIHULL ICB DECISION TO REFUSE AN APPLICATION BY CLINPHARM PLUS LIMITED FOR INCLUSION IN THE PHARMACEUTICAL LIST AT BAY 5, 875 TYBURN ROAD, BIRMINGHAM B24 9NY UNDER REGULATION 25

1 Outcome

1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, quashes the decision of the Commissioner and redetermines the application.

1.2 The Committee determined that the application should be refused.

A copy of this decision is being sent to:

Clinpharm Plus Ltd
PCSE on behalf of Birmingham and Solihull ICB
Boots
S.P.A. Healthcare Ltd T/A Prinja Pharmacy

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1 The Application

By application dated 16 June 2025, Clinpharm Plus Ltd ("the Applicant") applied to Birmingham and Solihull ICB ("the Commissioner") for inclusion in the pharmaceutical list at Bay 5, 875 Tyburn Road, Birmingham, B24 9NY 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:

1.2 "The Pharmacy will be providing Essential Services. It is not intended that appliances will be provided."

1.3 In response to why the application should not be refused pursuant to Regulation 31 the Applicant stated:

1.4 "Not applicable as no other pharmacy in same or adjacent premises."

1.5 In response to why the application should not be refused pursuant to Regulation 25(2)(a) the Applicant stated:

1.6 "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."

1.7 Please explain how the pharmacy procedures used within the premises will secure:

(a) the uninterrupted provision of essential services during the opening hours of the premises, to persons anywhere in England who request those services, and

(b) the safe and effective provision of essential services without face to face contact between any person receiving the services, whether on their own or someone else's behalf, and the applicant or the applicant's staff.

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.

1.8 **"Response to question 7.1 (a) and (b)**

1.8.1 The Pharmacy will have all the necessary technical systems in place in working order to ensure that uninterrupted provision of essential services will take place during working hours.

1.8.2 Our essential services will only be accessible at a distance - patients will be able to contact us by telephone, email, or using our website. Similarly, healthcare professionals will be able to issue prescriptions to us using the EPS system in place (which will be active after NHS contract is in place and the pharmacy obtains the ODS code). Both patients and healthcare professionals likewise will be able to post physical prescriptions to our registered pharmacy address.

1.8.3 In terms of specific systems, we use ProScript which is a well-known and reliable dispensing system used by thousands of pharmacies UK wide. This system will be used to dispense medication.

1.8.4 We will also use the Trello (or similar) work management software. This software allows us to Triage and organise all incoming patient requests and to deal with them in the most appropriate manner. We feel that this is important as it allows us to attend to the needs of our patient in the quickest, and most robust fashion. All channels of communication that we have available for the public will feed into this software.

1.8.5 We have clear guidelines set out in our SOPs (which are undergoing review/updating) to ensure that provision of services is carried out to the required standard during work hours. We will also provide clear guidance to service users on our website with respect to the services available from our pharmacy and how to access such services.

1.9 **Response to question 7.2**

1.9.1 The Pharmacy premises is located within a secure unit that is not readily accessible to the general public. However, should a patient attend the premises and request an essential service face to face, they would be advised that this is not permitted as it is contrary to our NHS agreement as we are a distance selling pharmacy. However, as part of our duty of care, we would also liaise with the patient and we would arrange to provide the requested service at a distance if necessary. This would naturally depend on the specific situation and the specific service requested.

1.10 **Response to question 7.3**

1.10.1 We do not intend to provide any advanced services at the premises currently. However, should this change, we would endeavour to ensure any element of essential services are not provided face to face. This largely involves making the patient aware of what is defined as an essential service and an advanced service and providing them with the necessary means to access any requested service in a practical manner. For example, if we decided to carry out advanced services in the future at the premises, we will not do face to face, we would use Microsoft Teams (or similar software). If the patient happened to attend the site and to brought [sic] a prescription with them, we would advise them that we are unable to provide any face-to-face services and they cannot hand in a prescription. They would have to post the prescription to our pharmacy address or ask their GP to send it electronically and we would deliver the treatment to their home (or chosen address) free of charge. We would also direct the patient to our website, specifically our "about us" section and the FAQs section which will set out in detail what we can and cannot do face to face as a distance selling pharmacy.

1.11 **Other supporting information**

1.11.1 SOPS.

1.11.2 If any further information is required, please contact us.

1.11.3 Please be advised that the SOPS are a draft document and remain under review pending being finalised. The SOPS will be finalised by the time of opening to be able to reflect any regulatory and other applicable changes (such as not providing services to walk in patients) There is new CPE guidance which will be considered (see attached) and the SOPs will be reviewed and updated accordingly."

1.11.4 [A copy of the Applicants SOPs were enclosed]

2 **Comments to the Commissioner**

2.1 On reviewing the paperwork provided by PCSE, it was noted that the comments made by the Applicant in response to the representations on the application, had not been circulated or seen by parties.

2.2 In the interests of transparency and fairness, NHS Resolution sought to rely on the discretion afforded in paragraph 7 of Schedule 3 of the Regulations to vary the normal procedures and circulate these comments to parties for them to make observations on them if they so wished.

Applicant's '14 day comments' to the Commissioner

2.3 "We refer to your email, and enclosures, dated the 17th September 2025.

2.4 We advise that the SOPs are under continuous review and updating process. We have an updated v3.2 of the SOPS, if the ICB requires a copy please contact us for a copy. Any further amendments will be subject to the ICB

decision and/or before the DSP opens if the application is approved and in light of the October changes and before the opening of the pharmacy.

2.5 We can confirm that the pharmacy will be carrying out risk assessments in respect of the service provision before the Pharmacy opens.

2.6 The objections are without foundation and have no substance and in part you may feel are preposterous (e.g. the sale of any medicine should be face to face rather than online; clearly this is not correct).

2.7 We invite you to give little or no weight to the objections by this objector which appear to be general in nature really.

2.8 **Local Need**

2.9 Distance Selling Pharmacies (DSPs) do not serve only their local area – by law, we must provide services to anyone in England. The number of local pharmacies is not relevant to a DSP application, as we are not adding to local "bricks-and-mortar" competition, and our model serves people throughout England.

2.10 **Patient Safety and Face-to-Face Concerns**

2.11 All services are provided in line with national regulations and are strictly "non face-to-face," as required. Our Standard Operating Procedures (SOPs) have robust safety checks, including clear policies for verifying patient identity, preventing misuse, reviewing all prescriptions by a pharmacist, and referring back to a patient's GP where needed.

2.12 **Regulation 31 and Business Association**

2.13 No part of our application is intended to duplicate or move services from an existing pharmacy. Our premises and operation are fully independent, and we do not understand the relevance of Regulation 31 here.

2.14 **Effect on Other Pharmacies and Staff Shortages**

2.15 The economic impact on existing pharmacies in DSP applications is not a relevant consideration. NHS regulations are clear that the only test is our ability to provide uninterrupted, safe essential services to anyone in England.

2.16 Existing pharmacies owned or connected to the director/s are also not of relevance for consideration in respect of DSP applications.

2.17 **Consultation Room and Independent Prescribers**

2.18 The consultation space is not for face-to-face NHS services. All our NHS work is remote only, in line with requirements. Being an independent prescriber does not affect eligibility, and no in-person prescribing will take place.

2.19 This appears to be a standard pro-forma objection, and we invite you to give little or no weight to the objector's objections.

2.20 **Service Provision Without Face-to-Face Contact**

2.21 We have supplied SOPs that clearly explain all processes for remote service delivery. The SOPs remain a "living document" which will be updated, amended, improved, as needed to ensure best practice and compliance with regulatory requirements.

2.22 **Delivery of Cold Chain (Fridge) Items**

2.23 Our SOPs specifically address the handling and delivery of cold chain items, including use of temperature-controlled packaging and tracking. We will follow all relevant requirements to ensure safety and integrity of these medicines.

2.24 **Regulations 25 and 64**

2.25 Our application and SOPs show full compliance with both regulations. Everything is designed to meet the expectations for remote, safe, uninterrupted service.

2.26 Again, with respect to the LPC, this is yet another pro-forma objection. Such objections are unhelpful as they are irrelevant and create unnecessary work for others in the process, such as us having to deal with these "objections". We therefore invite you to give little or no weight to the objector's objections.

2.27 **Collection and delivery service points for local services**

2.28 We do not operate or market ourselves as a local collection or drop-off service. This also appears to be a general objection "As you will be aware some DSPs….".

2.29 **Essential Services**

2.30 All essential services (including obtaining patient signatures, secure delivery of CDs, arranging for failed deliveries, and unwanted medicines returns) are included in our SOPs, and processes are available to any patient in England.

2.31 As stated earlier, any changes in laws, statutes, regulations, regulatory requirements will be followed and implemented in accordance with what the requirements are.

2.32 It is unreasonable for "… the LPC [to] expect you to ensure the application is modified to reflect these changes and be assured any SOPs are amended accordingly" as these changes are not in force at this stage.

2.33 In any event, in this respect, SOP Updates for October 2025: Our SOPs have already been updated (v3.1) in line with the June 2025 regulatory update so that all requirements for DSPs from October 2025 are reflected. Any final amendments will be made as necessary.

2.34 **Health Promotion and Public Health Campaigns**

2.35 Our public health and promotion work will be delivered digitally and made available to all patients via remote channels as required.

2.36 **Planning Permission, GPhC Registration, Equality Act**

2.37 All relevant planning, registration, and accessibility requirements will be fully met before opening and staff access will comply with all laws.

2.38 **Floor Plan/Consultation Room**

2.39 The consultation room is not for public use but for regulatory or staff needs as allowed and does not compromise patient confidentiality as asserted with no foundational basis whatsoever. As you will be aware, a consultation room is required, for GPhC purposes, for confidential discussions over the phone or other non-face to face patient consultations.

2.40 Again, this is another standard objection.

2.41 In our respectful submission, the Application meets the necessary legal requirements, as demonstrated in our application and supporting documents.

2.42 **Submission**

2.43 The objections are without foundation and appear to be pro-forma/standard objections.

2.44 In our submission, all raised points are either met by our paperwork/submissions or are not relevant to the applicable considerations.

2.45 In the circumstances, we respectfully submit that the application can and should be approved."

3 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 13 November 2025 states:

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

3.1 "Birmingham and Solihull 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.

3.2 You have a right of appeal to the Secretary of State against Birmingham and Solihull ICB's decision. Should you choose to appeal then you should either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:

3.3 Primary Care Appeals, NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU"

Excerpt from the Pharmacy Services Regulations Committee minutes

3.4 “PSRC (Committee) have **REFUSED** and ratified the following **Distant Selling Pharmacy** application:

3.5 **Clinpharm Plus Ltd - Bay 5, 875 Tyburn Road, Birmingham, B24 9NY** Regulation 25 – Distance Selling Premises Applications 25(2) The NHSCB 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 the NHSCB 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 between any person receiving the services, whether on their own or on someone else’s behalf, and the applicant or the applicant’s staff.

3.6 Regulation 25(2)(a) – The proposed premises 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. The applicant did not provide details within the application form, however the proposed premises 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. This is confirmed with information available on the NHS.UK website where the nearest general practice is located 0.6 mile away. **This regulation is deemed to have been met.**

3.7 Regulation 25(2)(b)(i) – It is noted that within the application form, the applicant did not confirm their intention to undertake to provide appliances. The Pharmacy Procedures indicate that the service will not be provided as a face-to-face essential service. **Clinical advisor has reviewed the SOPs provided by the applicant and provided the below comments:**

3.7.1 “I am still not assured that the applicant has provided sufficient information with regards to the safe and effective delivery of medicines anywhere in the UK. The SOPs go into some detail about how local deliveries will be managed, but very little about the nationwide service, other than the fact that City Sprint will be used. For Sch2 Controlled Drugs they have stated that *'Undelivered items must be returned to the pharmacy'* but this will not be possible if the delivery is several hours drive away. It is up to the applicant to assure us that any failed deliveries nationally will be managed safely, and this information has not been provided”. **This regulation is deemed to have not been met.**

3.8 Regulation 25(2)(b)(ii) – The pharmacy procedures and detailed SOPs provided appear to meet the standard required to satisfy the regulatory requirements of the provision of pharmaceutical services without face to face contact. The applicant is not undertaking to provide advanced and enhanced

services to the patients. **Clinical advisor has reviewed the SOPs provided by the applicant and confirmed that all points of this regulation deemed to have been met.**

3.9 Regulation 31 – refusal: same or adjacent premises 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") from-

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

(ii) adjacent premises, and

(b) 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).

3.10 Regulation 31 (1) The application is a for Distance Selling premises, therefore Regulation 31 (2) needs to be considered.

3.11 Regulation 31(2)(a) (i) (ii) There is no pharmacy providing pharmaceutical services at the same or adjacent premises. **This regulation therefore does not apply**

3.12 As Regulation 31(2)(a) does not apply, the committee is not required to consider Regulation 31(2) (b) **Therefore, the committee is not required to refuse the application under the provisions of Regulation 31.**

3.13 The Committee **refused** the application.

3.14 The Committee determined that the applicant has been granted appeal rights.

3.15 **Specific conditions – Distance Selling Premises**

3.16 "As the application is in respect of distance selling premises, by virtue of Regulation 64(3) of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended, if the applicant is subsequently included in the pharmaceutical list for the area of **Birmingham Health and Wellbeing board** in respect of the premises included in the application, that inclusion will be subject to the following conditions:

3.16.1 The applicant must not offer to provide pharmaceutical services to persons who are present at (which includes in the vicinity of) the proposed premises.

3.16.2 The means by which the applicant provides pharmaceutical services must be such that any person receiving those services does so otherwise than at the proposed premises.

3.16.3 The proposed premises must not be on the same site or in the same building as the premises of a provider of primary medical services with a patient list.

3.16.4 The pharmacy procedures for the premises must be such as to secure:

3.16.4.1 the uninterrupted provision of essential services, during the opening hours of the premises, to persons anywhere in England who request those services, and

3.16.4.2 the safe and effective provision of pharmaceutical services without face-to-face contact at the proposed 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; and

3.16.5 Nothing in the applicant's practice leaflet, in the applicant's publicity material in respect of the proposed premises, in material published on behalf of the applicant publicising services provided at or from the proposed premises or in any communication (written or oral) from the applicant or the applicant's staff to any person seeking the provision of essential services from the applicant must represent, either expressly or impliedly, that:

3.16.5.1 the essential services provided at or from the premises are only available to persons in particular areas of England, or

3.16.5.2 the applicant is likely to refuse, for reasons other than those provided for in the applicant's terms of service, to provide drugs or appliances ordered on prescription forms or repeatable prescription forms which are presented by particular categories of patients (eg because the availability of essential services from the applicant is limited to other categories of patients).""

4 The Appeal

In a letter dated 17 November 2025, the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

4.1 "**GROUNDS OF APPEAL**

4.2 Clinpharm Plus Ltd ("the Appellant") appeals the decision of Birmingham and Solihull ICB ("the Commissioner") dated 13 November 2025 to refuse the application for inclusion in the pharmaceutical list at Bay 5, 875 Tyburn Road, Birmingham, B24 9NY as a Distance Selling Pharmacy under Regulation 25 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

4.3 The refusal was based on a single ground namely that the Commissioner was not satisfied that Regulation 25(2)(b)(i) had been met, specifically regarding the safe and effective delivery of medicines anywhere in the UK, particularly Schedule 2 Controlled Drugs.

4.4 This appeal is made on the basis that:

4.4.1 **The application contains sufficient information** materially identical to that accepted in recent successful appeals (SHA/26675 Oldbury and SHA/26651 Poole).

4.4.2 **The clinical advisor's concern misunderstands and/or misapplies the legal framework** for CD delivery and imposes additional requirements.

4.4.3 **The Commissioner failed to request further information** before refusing, contrary to established procedure and Schedule 2 paragraph 10.

4.4.4 **The standard applied is inconsistent** with recent successful appeals, creating unfair and arbitrary decision-making.

4.5 The Appellant respectfully requests that the Committee quash the Commissioner's decision and grant the application.

4.6 **GROUND 1: THE APPLICATION CONTAINS SUFFICIENT INFORMATION**

4.7 The Legal Standard

4.8 Paragraph 10 of Schedule 2 to the Regulations provides that the obligation to provide details is 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."

4.9 The standard is **not** exhaustive detail on every conceivable scenario, but rather **sufficient information** to satisfy the Commissioner with good cause. This has been consistently applied in recent appeals.

4.10 **What Information Was Provided**

4.11 The Appellant's application included detailed information on national delivery arrangements:

4.12 **From the Application (Document 3, para 1.18):**

4.13 "All prescriptions dispensed will be delivered using a dedicated courier service provided by City Sprint (www.citysprinthealth.co.uk). This will include the delivery of prescriptions received via post, fax and EPS... City Sprint will also be delivering cold chain items and CDs."

4.14 The SOP "DELIVERING MEDICINES SAFELY AND EFFECTIVELY" provides comprehensive procedures including:

4.14.1 **National courier arrangements:** "City Sprint cover the whole of the UK as required by a DSP"

4.14.2 **CD delivery capability:** References to City Sprint's pharma grade specialist facilities

4.14.3 **Failed delivery protocols:** Procedures for when deliveries cannot be completed

4.14.4 **Cold chain management:** Temperature-controlled delivery nationwide

4.15 The Appellant has emphasized City Sprint's:

4.15.1 MHRA-compliant secure storage facilities nationwide

4.15.2 Home Office licensing for CD storage

4.15.3 Regional facilities for overnight storage when same-day return is not possible

4.15.4 Tracking systems that notify both pharmacy and patient of failed deliveries

4.16 **This Information is Materially Identical to Successful Appeals SHA/26675 (Oldbury)**

4.17 In SHA/26675, the applicant stated:

4.18 "All prescriptions dispensed will be delivered using a dedicated courier service provided by City Sprint (www.citysprinthealth.co.uk). This will include the delivery of prescriptions received via post, fax and EPS... City Sprint will also be delivering cold chain items and CDs."

4.19 The SOP stated (Document 6, para 7.20.1):

4.20 "For items other than cold chain / 'fridge line' items, local deliveries (up to 30 miles radius, but may be extended at the discretion of the RP) the delivery driver should deliver medication. Outside this area CitySprint should be used unless the prescription is for a controlled drug..."

4.21 **The Committee found this SUFFICIENT**, stating at paragraph 7.21:

4.22 "Based on the information before it, the Committee was satisfied that the provision of essential services would be available to persons anywhere in England."

4.23 The Oldbury application provided **no more detail** than the instant application regarding nationwide CD delivery arrangements.

4.24 **SHA/26651 (Poole)**

4.25 In SHA/26651, the applicant stated:

4.26 "There is provision within controlled drugs legislation to cover occasions when a controlled drug (CD) may temporarily be in the possession of a third party, e.g. a delivery person or postal carrier... Delivery of CD will be carried out by couriers with pharma grade specialist facilities to meet specific quality and validation requirements for healthcare products. This includes Home Office licensed controlled drug stores."

4.27 The Committee accepted this without requiring detailed SOPs for every nationwide delivery scenario, stating at paragraph 7.56:

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

4.29 **The Appellant's Information Meets the Same Standard**

4.30 The Appellant has provided:

4.31 **Identification of national courier** (City Sprint)

4.32 **Reference to appropriate accreditation** (MHRA-compliant, Home Office licensed)

4.33 **Outline of failed delivery protocols** (return procedures, overnight storage at regional facilities)

4.34 **Cold chain procedures** (temperature monitoring, courier capabilities)

4.35 **Legal framework** (temporary possession by authorized couriers)

4.36 This is the **same level of information** that was deemed sufficient in SHA/26675 and SHA/26651.

4.37 It is respectfully submitted that the application should have been approved by the Commissioner. The Commissioner's decision is arbitrary and inconsistent and contrary to law.

4.38 The Committee in SHA/26675 explicitly considered and rejected the same concern raised by the Commissioner here, finding at paragraphs 7.18-7.21 that identification of City Sprint as the national courier, combined with references to MHRA compliance and failed delivery protocols, was sufficient.

4.39 **The Appellant has provided sufficient information to satisfy Regulation 25(2)(b)(i).**

4.40 **GROUND 2: THE CLINICAL ADVISOR'S CONCERN MISUNDERSTANDS AND/OR MISAPPLIES THE LEGAL FRAMEWORK**

4.41 **The Clinical Advisor's Stated Concern**

4.42 The clinical advisor stated:

4.43 "For Sch2 Controlled Drugs they have stated that 'Undelivered items must be returned to the pharmacy' but this will not be possible if the delivery is several hours drive away. It is up to the applicant to assure us that any failed deliveries nationally will be managed safely, and this information has not been provided."

4.44 This concern contains two fundamental errors:

4.45 It misunderstands the legal requirements for CD delivery

4.46 It imposes a requirement (same-day physical return to the originating pharmacy) that has been expressly rejected in binding precedent

4.47 **The Legal Framework for Third-Party CD Possession Temporary Possession by Authorized Couriers is Lawful**

4.48 SHA/26651 established at paragraph 1.137:

4.49 "There is provision within controlled drugs legislation to cover occasions when a controlled drug (CD) may temporarily be in the possession of a third party, e.g. a delivery person or postal carrier, while it is being transferred from one authorised person to another authorised person who is entitled to be in possession of the drug."

4.50 The Committee accepted this principle without question. The Misuse of Drugs Regulations 2001 (Regulation 14) expressly permit temporary possession by persons engaged in conveying CDs from one authorized person to another.

4.51 **Same-Day Return to Originating Pharmacy is NOT Required**

4.52 SHA/26675 directly addressed this issue at paragraph 7.55.4:

4.53 "Handling Unsuccessful Schedule 2 & 3 Deliveries by Courier: For unsuccessful deliveries facilitated by a courier, the Controlled Drugs should be returned to the pharmacy on the same day **whenever feasible**... **If the timing of the attempted delivery precludes same-day return, the courier is responsible for storing the drugs securely overnight at their approved, MHRA-compliant warehouse facilities.** In the event of a failed delivery, the tracking service will notify both the pharmacy and the patient, enabling the arrangement of a re-delivery..."

4.54 The Committee at paragraph 7.61 **"specifically noted and accepted these CD delivery arrangements as compliant."**

4.55 The Committee did not require physical return to the originating pharmacy on the same day. It accepted secure storage at the courier's regional MHRA-compliant facilities.

4.56 **The Clinical Advisor's Requirement Has Been Expressly Rejected**

4.57 The clinical advisor's concern that "this will not be possible if the delivery is several hours drive away" was the **exact scenario** contemplated and approved in SHA/26675.

4.58 The Committee in SHA/26675 understood that:

4.58.1 Nationwide DSP services involve deliveries "several hours drive away"

4.58.2 Same-day physical return to the originating pharmacy is often impractical

4.58.3 Secure overnight storage at courier regional facilities is the appropriate solution

4.58.4 This arrangement complies with the Misuse of Drugs Regulations 2001

4.59 To refuse the instant application on this ground is to:

4.59.1 Ignore the earlier decision in SHA/26675

4.59.2 Impose a requirement that contradicts the Committee's previous findings

4.59.3 Create an impossible standard (no DSP could meet a requirement for same-day physical return of all failed nationwide CD deliveries)

4.60 **The Appellant's Procedures Comply with Established Requirements**

4.61 The Appellant's SOPs and correspondence confirm:

4.61.1 **Licensed courier with appropriate facilities:** City Sprint has Home Office licensed CD storage facilities at regional hubs

4.61.2 **Secure storage for failed deliveries:** Failed CD deliveries are stored at City Sprint's regional licensed facilities when same-day return is not feasible

4.61.3 **Tracking and notification:** Automated systems notify pharmacy and patient of failed deliveries

4.61.4 **Re-delivery arrangements:** Re-delivery is arranged within 24-48 hours

4.61.5 **Legal compliance:** This complies with Misuse of Drugs Regulations 2001 provisions for temporary possession

4.62 This is **identical in substance** to the arrangements approved in SHA/26675.

4.63 **Conclusion on Ground 2**

4.64 The clinical advisor's concern:

4.64.1 Misunderstands the legal framework for CD delivery

4.64.2 Imposes a requirement (same-day physical return) expressly rejected in SHA/26675

4.64.3 Ignores the practicalities of nationwide DSP services

4.64.4 Would make it impossible for any DSP to provide nationwide CD delivery

4.65 **The Appellant's CD delivery procedures comply with the legal requirements as established in binding precedent.**

4.66 **GROUND 3: THE COMMISSIONER FAILED TO REQUEST FURTHER INFORMATION**

4.67 **The Obligation to Request Information**

4.68 Schedule 2, paragraph 10 of the Regulations provides that where information is insufficient, the applicant has not discharged their obligation "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."

4.69 Critically, paragraph 8 requires applicants to "include in that application details that explain" the matters specified. The Regulations contemplate an iterative process.

4.70 **Established Practice in Recent Appeals**

4.71 In both SHA/26675 and SHA/26651, applicants were given opportunities to provide clarification:

4.72 **SHA/26675:**

4.72.1 The applicant was permitted to provide "14 day comments" in response to representations (Document 6, section 2)

4.72.2 The Committee noted at paragraph 7.16 that "paragraph 10 of Schedule 2 indicates that the obligation is only discharged if the information or documentation provided is sufficient"

4.72.3 The Commissioner's initial concerns about national delivery were **resolved through the provision of additional SOPs on appeal**

4.73 **SHA/26651:**

4.73.1 The applicant provided "14 day comments"

4.73.2 Additional SOPs were submitted with the appeal

4.73.3 The Committee considered all information cumulatively

4.74 **The Commissioner's Failure in This Case**

4.75 Here, the Commissioner:

4.75.1 **Did not request clarification** of the CD delivery arrangements before refusing

4.75.2 **Did not give the Appellant an opportunity** to provide the same level of detail ultimately submitted on appeal

4.75.3 **Refused without seeking additional information** despite paragraph 10 contemplating sufficiency of information

4.76 We are disappointed that the ICB chose to refuse the request rather than seeking further detailed information on deliveries which is the ONLY point of

refusal, which could have avoided the need for an appeal and the resulting lengthy process.

4.77 **Procedural Unfairness**

4.77.1 The Commissioner's approach creates procedural unfairness:

4.77.2 In SHA/26675 and SHA/26651, applicants were given opportunities to clarify and supplement

4.78 Here, the Appellant was refused without such opportunity

4.79 If the Commissioner considered the information insufficient, the proper course was to request additional details under paragraph 10, not to refuse outright.

4.80 **“Missing” information**

4.81 This information **should have been requested** before refusal and in any case the City Sprint SLA will be in place upon approval.

4.82 **Conclusion on Ground 3**

4.82.1 The Commissioner's failure to request further information before refusing:

4.82.2 Contradicts the approach taken in SHA/26675 and SHA/26651

4.82.3 Violates the implied obligation under paragraph 10 of Schedule 2

4.82.4 Creates procedural unfairness

4.83 **The Commissioner should have requested clarification before refusing the application.**

4.84 **GROUND 4: INCONSISTENT APPLICATION OF STANDARDS**

4.85 **The Problem of Inconsistency**

4.86 The Commissioner has applied a standard of scrutiny to this application that:

4.86.1 Exceeds that applied in SHA/26675 and SHA/26651

4.86.2 Is not required by the Regulations

4.86.3 Creates arbitrary and unpredictable decision-making

4.86.4 Disadvantages applicants without good cause

4.87 **Comparison of Standards Applied**

Requirement	SHA/26675 (GRANTED)	SHA/26651 (GRANTED)	Instant Application (REFUSED)
National Courier Identified	City Sprint named	"Couriers with pharma grade facilities"	City Sprint named
MHRA compliance referenced	Generic reference	Reference to specialist facilities	MHRA-compliant facilities
Failed delivery protocols	Outline provided	General statement	Outline provided
CD delivery capability	Statement that City Sprint handles CDs	Home office licensed stores	City Sprint handles CDs
Overnight storage	Mentioned in SOPs	Implied in general statement	Confirmed
Outcome	GRANTED	GRANTED	REFUSED

4.88 **No Material Difference in Information Provided**

4.89 The applications are materially identical in:

4.89.1 Level of detail regarding courier selection

4.89.2 References to regulatory compliance

4.89.3 Outline of failed delivery protocols

4.89.4 Identification of CD handling capabilities

4.90 Yet the outcomes are opposite.

4.91 **The Standard Applied Here is Impossible to Meet**

4.92 If the Commissioner's standard were consistently applied:

4.92.1 **SHA/26675 should have been refused** for not providing detailed SOPs on nationwide CD delivery

4.92.2 **SHA/26651 should have been refused** for not providing specific details of courier arrangements

4.92.3 **No DSP could ever satisfy** a requirement for same-day physical return of all failed nationwide CD deliveries

4.93 The Commissioner has created a standard that:

4.93.1 Was not applied to SHA/26675 or SHA/26651

4.93.2 Would be impossible for any DSP to meet

4.93.3 Is not required by the Regulations or established precedent

4.94 **Legal Principles of Consistency**

4.95 Public authorities must exercise discretion consistently.

4.96 The Commissioner has:

4.96.1 Treated this application differently from SHA/26675 and SHA/26651

4.96.2 Provided no justification for the different approach

4.96.3 Applied a heightened standard without explanation

4.97 **Conclusion on Ground 4**

4.98 The inconsistent application of standards:

4.98.1 Violates principles of public law

4.98.2 Creates arbitrary decision-making

4.98.3 Disadvantages the Appellant without justification

4.98.4 Undermines confidence in the regulatory system

4.99 **The Committee should apply the same standard to this application as was applied in SHA/26675 and SHA/26651.**

4.100 **GROUND 5: THE COMMISSIONER'S DECISION OVERLOOKS KEY INFORMATION**

4.101 **5.1 Information Actually Provided in SOPs**

4.102 The Commissioner's decision states that the SOPs "go into some detail about how local deliveries will be managed, but very little about the nationwide service, other than the fact that City Sprint will be used".

4.103 This statement overlooks substantial information in the SOPs:

4.104 **From "DELIVERING MEDICINES SAFELY AND EFFECTIVELY":**

4.105 The SOP explicitly addresses:

4.105.1**Scope:** "City Sprint cover the whole of the UK as required by a DSP"

4.105.2 **Cold chain nationwide:** References to City Sprint's temperature-controlled capabilities

4.105.3 **CD courier services:** Multiple references to specialist CD handling

4.105.4 **Failed delivery protocols:** Procedures for managing unsuccessful deliveries

4.105.5 **Return arrangements:** Protocols for items that cannot be delivered

4.106 **From "DELIVERY OF SCHEDULE 2 CONTROLLED DRUGS":**

4.107 The SOP provides:

4.107.1 **Courier credentials:** References to specialist pharma grade facilities

4.107.2 **Legal framework:** Confirmation of compliance with CD regulations

4.107.3 **Security measures:** Protocols for secure handling and storage

4.107.4 **Tracking systems:** Monitoring of all CD deliveries

4.108 **The Commissioner Drew Unreasonable Inferences**

4.109 The Commissioner inferred that because the SOPs did not contain exhaustive detail on every aspect of nationwide delivery, they were insufficient.

4.110 This inference is unreasonable because:

4.110.1 **The same inference could have been drawn in SHA/26675:** The Oldbury SOPs contained similar level of detail, yet were accepted

4.110.2 **The Regulations do not require exhaustive detail:** Paragraph 10 requires "sufficient" information, not comprehensive procedural manuals

4.110.3 **Reasonable inferences should be drawn:** If City Sprint is named as covering "the whole of the UK," it is reasonable to infer they have nationwide capabilities

4.111 **The Draft Status of SOPs**

4.112 The Commissioner notes that the SOPs are marked "DRAFT" (Document 2, multiple pages).

4.113 However:

4.113.1 The application form (Document 3, page 8) expressly states: "Please be advised that the SOPS are a draft document and remain under review pending being finalised. The SOPS will be finalised by the time of opening..."

4.113.2 SHA/26675 and SHA/26651 both involved SOPs that would be finalized before opening

4.113.3 The substantive content of the SOPs is what matters, not their draft status

4.113.4 The Appellant has confirmed willingness to finalize SOPs to address any specific concerns

4.114 The draft status does not render the information insufficient.

4.115 **Conclusion on Ground 5**

4.116 The Commissioner:

4.116.1 Overlooked key information in the SOPs

4.116.2 Drew unreasonable inferences from the information provided

4.116.3 Failed to consider that the Appellant could easily clarify or supplement the SOPs if requested

4.117 **A fair reading of the SOPs shows they contain sufficient information consistent with SHA/26675 and SHA/26651.**

4.118 **CONCLUSION AND RELIEF SOUGHT**

4.119 **Summary**

4.120 This appeal demonstrates that:

4.120.1 **The Appellant provided sufficient information** materially identical to SHA/26675 and SHA/26651

4.120.2 **The clinical advisor's concern is based on a misunderstanding** of the legal framework for CD delivery and contradicts binding precedent

4.120.3 **The Commissioner failed to request clarification** before refusing, contrary to established practice

4.120.4 **The standard applied is inconsistent** with recent successful appeals

4.120.5 **The Commissioner overlooked key information** in the SOPs and drew unreasonable inferences

4.121 **The Core Issue**

4.122 The sole ground of refusal concerns nationwide CD delivery. The Appellant has now provided:

4.122.1 Confirmation of City Sprint's MHRA-compliant, Home Office licensed facilities

4.122.2 Details of regional storage for failed deliveries

4.122.3 Tracking and notification systems

4.122.4 Enhanced SOPs addressing the clinical advisor's specific concern

4.123 This information was always available. Had the Commissioner requested it (as occurred in SHA/26675 and SHA/26651), this appeal would have been unnecessary.

4.124 **Binding Precedent**

4.125 SHA/26675 is directly on point. The Committee there:

4.125.1 Considered the exact same concern about nationwide CD delivery

4.125.2 Accepted that same-day physical return is not required

4.125.3 Approved secure overnight storage at courier regional facilities

4.125.4 Found that identification of City Sprint plus references to MHRA compliance was sufficient

4.126 The Commissioner is bound by this precedent. To refuse the instant application on the same ground that was accepted in SHA/26675 is an error of law.

4.127 **Relief Sought**

4.128 The Appellant respectfully requests that the Committee:

4.128.1 **Quash the Commissioner's decision** to refuse the application

4.128.2 **Redetermine the application** as follows:

4.128.2.1 The Committee is satisfied that the proposed premises are not on the same site or in the same building as a provider of primary medical services with a patient list

4.128.2.2 The Committee is satisfied that all essential services will be provided without interruption during opening hours

4.128.2.3 The Committee is satisfied that all essential services will be provided to persons anywhere in England

4.128.2.4 The Committee is satisfied that pharmaceutical services will be provided safely and effectively

4.128.2.5 The Committee is satisfied that pharmaceutical services will be provided without face-to-face contact at the premises

4.128.3 Grant the application

4.129 **Alternative Relief**

4.130 If the Committee considers that further information is required (which the Appellant respectfully submits is not necessary given SHA/26675 and SHA/26651), the Appellant requests:

4.130.1 **Remit to the Commissioner** with a direction to request specific information

4.130.2 **Give the Appellant 21 days** to provide such information

4.130.3 **Redetermine** the application following receipt of that information

4.131 However, the Appellant emphasizes that:

4.131.1 All necessary information has been provided

4.131.2 The application meets the same standard as SHA/26675 and SHA/26651

4.131.3 Further delay is unnecessary and prejudicial

4.132 **Costs and Prejudice**

4.133 The Appellant has:

4.133.1 Incurred substantial costs in preparing this application

4.133.2 Secured suitable premises

4.133.3 Been prejudiced by the Commissioner's failure to request clarification before refusing

4.134 The refusal causes ongoing financial harm and delays the provision of pharmaceutical services to patients across England.

4.135 **SUPPORTING DOCUMENTS**

4.136 The following documents are enclosed with this appeal:

4.136.1 Commissioner's decision letter dated 13 November 2025

4.136.2 PSRC Action Report dated 14 October 2025

4.136.3 Original application form and supporting information

4.136.4 Draft SOPs (version 3.1)

4.136.5 Correspondence with NHS/ICB regarding the application

4.136.6 SHA/26675 (Oldbury) decision - PROVIDED BY NHS RESOLUTION

4.136.7 SHA/26651 (Poole) decision - PROVIDED BY NHS RESOLUTION

4.137 The Appellant relies on all documents before the Commissioner and all documents provided to NHS Resolution in support of this appeal.

4.138 **APPENDIX: KEY EXTRACTS FROM SHA/26675**

4.139 For ease of reference, the following are the key paragraphs from SHA/26675 that directly address the issue in this appeal:

4.140 **Paragraph 7.18** (Application Information):

4.141 "The Committee noted the Applicant had stated, in its procedures that: 'Patients anywhere in England can access these services via our pharmacy website a direct phone line to the pharmacy, fax, email as well as webcam... All prescriptions dispensed will be delivered using a dedicated courier service provided by City Sprint (www.citysprinthealth.co.uk). This will include the delivery of prescriptions received via post, fax and EPS at the current release version. City Sprint will also be delivering cold chain items and CDs.'"

4.142 **Paragraph 7.21** (Committee's Conclusion):

4.143 "Based on the information before it, the Committee was satisfied that the provision of essential services would be available to persons anywhere in England."

4.144 **Paragraph 7.55.4** (CD Failed Deliveries):

4.145 "Handling Unsuccessful Schedule 2 & 3 Deliveries by Courier: For unsuccessful deliveries facilitated by a courier, the Controlled Drugs should be returned to the pharmacy on the same day whenever feasible... If the timing of the attempted delivery precludes same-day return, the courier is responsible for storing the drugs securely overnight at their approved, MHRA-compliant warehouse facilities. In the event of a failed delivery, the tracking service will notify both the pharmacy and the patient, enabling the arrangement of a re-delivery..."

4.146 **Paragraph 7.61** (Committee's Acceptance):

4.147 "The Committee at paragraph 7.61 specifically noted and accepted these CD delivery arrangements as compliant."

4.148 These paragraphs establish that:

4.148.1 The same information provided here was accepted there

4.148.2 Same-day physical return to the originating pharmacy is not required

4.148.3 Secure overnight storage at courier regional facilities is acceptable

4.148.4 The Commissioner's concern in this case has been expressly rejected by binding precedent."

5 Summary of Representations

This is a summary of representations received on the appeal.

5.1 S.P.A Healthcare Ltd t/a Prinja Pharmacy

5.1.1 “Thanks for your communication regarding the above application. We are writing this letter on behalf of our both branches situated at 1128 Tyburn Road, Erdington, B24 0SY and 1097 Chester Road, Pype Hayes, Birmingham, B24 0PP.

5.1.2 We very strongly oppose the appeal of the applicant to decision of the Commissioner on the above application, which has been determined correctly.

5.1.3 I addition to our previous communication, we want to add the following information:

5.1.4 a). Proximity to existing pharmacies (Regulation 31). Kindly, see the attached map.

5.1.5 Granting the application would harm existing pharmacies, potentially leading to closure and gaps in local full pharmaceutical Services. There is not going to significant benefit or improvement to the pharmaceutical services if the application is granted. See Maps 1 & 2. attached herewith.

5.1.6 b). After thoroughly studying and analyzing their S.O.P’s we feel that the Pharmaceutical Service will not be provided in a safe and effective manner.

5.1.7 Also, we have concerns over the vetting and monitoring of third-party delivery services for reliability and suitability (e.g., for refrigerated medicines and controlled drugs.

5.1.8 Our experience has shown that this business model prioritizes sales over safe, appropriate supply, delays, potentially allowing patients to get medicines without safe and proper checks.

5.1.9 c). There is clear evidence that the DSPs are operating in small geographical areas rather than the national service. As it saves them cost of delivery. There is clear evidence that over 70% of DSP’s are providing prescriptions to local people acting as ‘pseudo-DSP’s’ as they can operate with lower overheads and keep the other operating costs down by only marketing their businesses, and delivering medicines, locally.

5.1.10 We are convinced that Clinpharm’s intention is to provide local services from their DSP base as a Pseudo-DSP, violating the DSP rules.

5.1.11 d). The research has shown that more than 50% of DSP’s prescription volume comes from the GPs in a single postcode area located within 10 miles of their premises, and 72% are not following their NHS DSP contractual requirements.

5.1.12 Hence, we request that this appeal should be rejected."

Letter dated 26 December 2025 addressed to the Commissioner

5.1.13 "Thanks for your communication regarding the above application. We are writing this letter on behalf of our both branches situated at 1128 Tyburn Road, Erdington, B24 0SY and 1097 Chester Road, Pype Hayes, Birmingham, B24 0PP.

5.1.14 I refer to my previous communication and would like to add some information under b). regarding the safe delivery.

5.1.15 It has been brought to our attention by the patients and their relations that the delivery parcels of the medications being delivered by their Internet Pharmacy (DSP) were posted through the letter box without anyone signing for the delivery and also contacting us that some medications are missing or not being supplied.

5.1.16 Most of the companies are not following the SOPs.

5.1.17 Patient nominations: There has been clear evidence that the DSPs are nominating electronically themselves without the patients consent (auto nomination).

5.1.18 Some are paying companies a fee for this service too. We have had some information from our patients that without their knowledge and instructions their prescriptions have been delivered or gone to an internet pharmacy. They subsequently asked us and their GP to renominate back to us."

6 Summary of Observations

This is summary of observations received.

6.1 The Applicant

6.1.1 "Other than stating Clinpharm Plus Ltd have no DSP and the two letter sent Prinja [sic] we state:

6.1.2 Letter 1 Sops and associated paperwork provided

6.1.3 Letter 2 Clinpharm do not have a DSP so unsure who it refers to about posting of medicines and missing medicines."

7 Consideration

7.1 The Pharmacy Appeals Committee ("Committee") appointed by NHS Resolution, had before it the papers considered by the Commissioner, together with a plan of the area showing existing pharmacies and doctors' surgeries and the location of the proposed pharmacy.

7.2 It also had before it the responses to NHS Resolution's own statutory consultations.

7.3 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.

7.4 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations").

Regulation 31

7.5 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).

7.6 The Committee noted that the Applicant, in its application, had stated "*Not applicable as no other pharmacy in same or adjacent premises*". The Committee noted that the Commissioner had concluded under the heading "Regulation 31 – refusal: same or adjacent premises" that "*There is no pharmacy providing pharmaceutical services at the same or adjacent premises. This regulation therefore does not apply*." 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

7.7 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."

7.8 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)

7.9 In relation to Regulation 25(1), the Applicant is applying for inclusion in the relevant pharmaceutical list as 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, and paragraph (1)(b) 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)

7.10 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*." The Committee noted that this had not been disputed and that it had not been provided with any information to persuade it otherwise. The Committee was therefore satisfied that the proposed premises were not on the same site as, or in the same building as the premises of a provider of primary medical services with a patient list.

Regulation 25(2)(b)

7.11 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, including its Standard Operating Procedures (SOPs) that it intends to use at the proposed pharmacy premises.

7.12 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.

7.13 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.

7.14 The Committee has asked itself whether it has sufficient information and documentation which would address the criteria in Regulation 25(2)(b). If the Committee is to be satisfied of the matters in that paragraph, the Committee must be provided with evidence to demonstrate these matters. In this case, that evidence put forward has taken the form of the original application and the SOPs which the Applicant has prepared or commissioned.

7.15 It is not for the Committee to 'approve' or 'disapprove' of these SOPs (as they may contain matters not relevant to the Committee's consideration, and there are many ways an applicant can choose to organise itself in order to comply with the various requirements of the Regulations) and the Committee has not sought to do so. The Committee has sought evidence within the SOPs and application in order to satisfy itself that it is appropriate to grant the application, the absence of which would require it to reject it.

7.16 Further, as the Applicant did not request that the revised SOPs submitted on appeal supersede the original SOPs provided to the Commissioner, the Committee has considered both sets of SOPs in reaching its determination.

7.17 The Committee noted the comments from the Applicant in its appeal, with regard to previous applications that the Committee had granted. The Applicant states "*The application contains sufficient information materially identical to that accepted in recent successful appeals (SHA/26675 Oldbury and SHA/26651 Poole).*" Whilst the Committee noted the Applicant's comments, it 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 it met the Regulations.

7.18 In addition, the Committee noted the Applicant's comments that the Commissioner had failed to provide it with the opportunity to provide further information and this presented procedural unfairness. The Committee was mindful that this appeal is a reconsideration of the application afresh rather than a review of the Commissioner's decision and the Applicant had been advised of this. The process is not iterative, and the Applicant has had the opportunity to supply all information which it intends to rely upon.

Provision of services across England

7.19 In relation to the provision of essential services to persons anywhere in England, the Committee noted the comments from the Commissioner that "*The SOPs go into some detail about how local deliveries will be managed, but very little about the nationwide service, other than the fact that City Sprint will be used*." The Committee noted that the Commissioner was not satisfied with regard to a national service being offered by the Applicant.

7.20 The Committee noted the comments from the Applicant under the heading 'Delivering Medicines Safely and Effectively', under the subheading 'Delivery via Courier' in their SOPs:

7.20.1 "*Medicines should only be couriered when it is impractical to deliver via the delivery driver (delivery drivers will cover certain areas but City Sprint cover the whole of the UK as required by a DSP. CDs must* ***NOT*** *be couriered outside of the UK.* ***City Sprint will be used for UK wide deliveries where delivery driver is not practicable.***"

7.21 Further, the Committee noted in the Applicant's original SOPs under the heading 'Discharge Medicine Service', the Applicant states:

7.21.1 "*All medications will be delivered using our in-house delivery service or the City Sprint courier service and will maintain service delivery without face-to-face contact*."

7.22 The Committee noted in the Applicant's revised SOP titled 'Nationwide Delivery of Medicines and Management of Failed Deliveries,' it states:

7.22.1 "*This SOP applies to all prescription medicines (POM, P, GSL) and Controlled Drugs (Schedules 2–5) dispatched from [Pharmacy Name]*

to any address within the UK, using local or national courier partners (e.g., CitySprint, Sprintline, or other approved GDP-compliant providers)."

7.23 Whilst the Committee noted the reference to the use of nationwide delivery couriers if the pharmacy were to open, it also observed that the 'Repeat Dispensing' SOP, under the heading 'Scope', states that the "*Procedure covers repeat dispensing services operated between this pharmacy and participating local GP Practices for those patients who wish to take advantage of them.*" This indicated an intention to operate at a local level, with no explanation as to how patients from GP practices outside the local area would access the pharmaceutical services proposed.

7.24 The Committee was therefore not satisfied that the provision of essential services would be available to persons anywhere in England.

Essential services will be provided on an uninterrupted basis

7.25 The Committee noted SOP 1 'General Working Practices' states:

7.25.1 "*Breaks: Staff members working more than six hours in the day must take a 20-minute rest break. Staff members working 9 hours are also entitled to a 30-minute lunch break. Staff must arrange their breaks in a staggered fashion, in order to ensure minimal disruption to services*."

7.26 And further

7.26.1 "*In the event of absence of staff members or other unforeseen circumstances, it is the responsibility of the superintendent pharmacist to amend the rota and delegate work appropriately to ensure that service delivery is maintained to a safe and acceptable standard. Where staff levels fall below safe standards such that there is concern with regards to patient safety, the superintendent pharmacist, must then consider what steps to take to ensure that patient safety is maintained*."

7.27 The Committee noted that, although the Applicant had addressed the absence of staff members in the SOPs, no procedure was specified for circumstances in which the Responsible Pharmacist might be absent and the availability of a second pharmacist. On the basis of the information provided, the Committee was therefore not satisfied that the uninterrupted provision of essential services would be secured.

Without Face to Face Contact

7.28 In its application form, the Applicant states:

7.28.1 *"The Pharmacy will have all the necessary technical systems in place in working order to ensure that uninterrupted provision of essential services will take place during working hours*.

Our essential services will only be accessible at a distance - patients will be able to contact us by telephone, email, or using our website. Similarly, healthcare professionals will be able to issue prescriptions to

us using the EPS system in place (which will be active after NHS contract is in place and the pharmacy obtains the ODS code). Both patients and healthcare professionals likewise will be able to post physical prescriptions to our registered pharmacy address.

…

If the patient happened to attend the site and to brought a prescription with them, we would advise them that we are unable to provide any face-to-face services and they cannot hand in a prescription. They would have to post the prescription to our pharmacy address or ask their GP to send it electronically and we would deliver the treatment to their home (or chosen address) free of charge. We would also direct the patient to our website, specifically our "about us" section and the FAQs section which will set out in detail what we can and cannot do face to face as a distance selling pharmacy."

7.29 The Committee noted that in the Applicant's SOPs under the heading 'Discharge Medicine Service', the Applicant states:

7.29.1 *"Patients anywhere in England can access the discharge medicine service via phone, email, chat, video link, i.e. none face to face method of communication."*

7.30 The Applicant states in its '14 day comments' that:

7.30.1 "*All services are provided in line with national regulations and are strictly "non face-to-face," as required. Our Standard Operating Procedures (SOPs) have robust safety checks, including clear policies for verifying patient identity, preventing misuse, reviewing all prescriptions by a pharmacist, and referring back to a patient's GP where needed*."

7.31 Further, the Committee was mindful of the regulatory changes as of 1 October 2025, that distance selling pharmacies can no longer provide Directed services (Advanced, National Enhanced and Enhanced Services, with the exception of Covid-19 and Flu vaccination services) face-to-face with the patient at the pharmacy premises. As a result of this amendment, the Committee noted that the Applicant would not be able to provide any pharmaceutical services at its premises.

7.32 In its application, the Applicant had stated that it does not intend to provide "*any advanced services at the premises currently*." The Applicant goes on to state that if this should change, they would "*endeavour to ensure any element of essential services are not provided face to face. This largely involves making the patient aware of what is defined as an essential service and an advanced service and providing them with the necessary means to access any requested service in a practical manner. For example, if we decided to carry out advanced services in the future at the premises, we will not do face to face, we would use Microsoft Teams (or similar software).*"

7.33 The Committee accepted that the application was made before the above changes and was aware that if the pharmacy opens, it would be the

responsibility of NHS England, in keeping with Regulation 64, to ensure that services are provided other than with face to face contact.

7.34 The Committee noted that the above means of communications with patients did not involve face to face contact and was therefore satisfied that the provision of services would be without face-to-face contact.

7.35 Overall, the Committee was satisfied that the provision of pharmaceutical services would be without face to face contact. The Committee was not satisfied that the provision of essential services would be available to persons anywhere in England or that essential services would be provided without interruption. The Committee went on to consider whether the safe and effective provision of pharmaceutical services was likely to be secured.

7.36 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.

7.37 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:

7.37.1 Dispensing of drugs and appliances

7.37.2 Urgent supply without a prescription

7.37.3 Preliminary matters before providing ordered drugs or appliances

7.37.4 Providing ordered drugs or appliances

7.37.5 Refusal to provide drugs or appliances ordered

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

7.37.7 Disposal service in respect of unwanted drugs

7.37.8 Promotion of healthy lifestyles

7.37.9 Prescription linked intervention

7.37.10 Health campaigns

7.37.11 Signposting

7.37.12 Support for self-care

7.37.13 Discharge medicines service

7.37.14 Websites and health promotion zones

7.38 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:

Providing ordered drugs or appliances

7.39 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).

7.40 The Committee noted the Applicant's comments in its appeal that they will use "City Sprint" as the courier that will deliver cold-chain medicines. However, it was noted that in the Applicant's SOP 'Delivering Medicines Safely and Effectively' under the heading 'P5 Delivery', that reference is made to the 'Delivery driver/Courier':

7.40.1 *"While in transit, medicines must always be secured and remain in your possession or left in the vehicle. The vehicle must be locked, the windows must be closed, and the medicines should be kept out of sight, e.g. the boot of a car*

Medicines usually requiring storage in a fridge must be kept in a cool box during transit

Travel to the correct address

Politely introduce yourself and explain why you are present

Confirm your identity and hand over the medicines to the patient/carer or authorised designated person. ***DO NOT*** *hand over medicines to someone who is not the patient/carer or authorised designated person*

Ask the patient to check the name, address, and number of packages. Confirm exemption evidence if applicable

Ask the patient to check that the medicines received are required by the patient to help minimise wastage

Ask the patients if they will require their repeats again next month

Ask the patient to write their name and sign to indicate receipt of the medication in the Driver's delivery record book – where this isn't possible, the reason should be recorded by the delivery driver/courier

Return the Delivery Record book to authorised pharmacy staff."

7.41 The Committee was of the view that the above extract at 7.40.1 was in reference to both the Applicant's own local delivery driver as well as delivery by courier.

7.42 The Committee noted the link provided in the SOPs regarding how City Sprint maintained the cold chain. With regard to cold chain deliveries by the pharmacy employed driver, whilst the Committee noted reference to using a "cool box", there was nothing provided by the Applicant to demonstrate how this would appropriately maintain medicines at the correct temperature, the monitoring of the temperature and that an audit process or appropriate system is in place which would highlight any items, which might have ceased to be correctly refrigerated in transit and therefore be compromised, and how these would be prevented from being given to the patient. The Committee noted that the Applicant's SOP states *"Where schedule 2 or 3 CDs or fridge lines are not delivered, inform the pharmacist upon return to the pharmacy*" but there was a lack of information regarding safe segregation and storage of such items if delivery had been unsuccessful.

7.43 Therefore, the Committee could not be satisfied, as it was required to be, that during transit with the pharmacy delivery driver, the cold chain would be maintained and monitored throughout. Further there was no information to explain what would happen in the event of a breach of cold chain or failed/ missed delivery.

7.44 Based on the information before it, the Committee was not satisfied that the Applicant had provided information sufficient to show that there would be compliance with paragraph 8(1) of Schedule 4.

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

7.46 In the application, the Committee noted that in response to the question as to whether they were undertaking to provide appliances, the Applicant stated "*It is not intended that appliances will be provided."* The Committee noted that the Applicant had not provided any further information with regard to appliances. In the event that the application is granted, the Applicant would therefore, not be able to provide such appliances that require measuring and/or fitting to patients.

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

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

7.48 The Committee noted that the Applicant's SOP titled 'Repeat Dispensing' states:

7.48.1 "*Purpose*

To provide a framework for a safe ongoing repeat dispensing service which includes prompt attention to medication changes or any other

known changes in patent need. To ensure that the master repeatable prescription and batch issues are stored safely. To ensure there is an effective audit trail for each master repeatable prescription and its associated batch issues. To ensure that all regular dispensary staff are appropriately trained in accordance with the local PCO arrangements, and that all part-time pharmacists, relief pharmacists and locum pharmacist who work in the pharmacy have also received appropriate training. To increase convenience for patients on regular repeat medication and to decrease drug wastage

7.48.2 *Scope*

Procedure covers repeat dispensing services operated between this pharmacy and participating local GP Practices for those patients who wish to take advantage of them

7.48.3 *Before Providing the First and Subsequent Repeat Items to the Patient:*

7.48.3.1 *Contact the patient via their preferred method of none face to face contact. Check whether the patient:*

Is taking or using the medicines, appliances or reagents properly

Requires each item to be dispensed

Is not suffering from any side-effects that suggest a need for review

Is taking any OTC medicines which could cause problems

Whether there are any other reasons why the items should not be supplied

The GP should be informed promptly if items are not supplied or if there are any problems

7.48.4 *Before Supplying Subsequent Batch Issues*

7.48.5 *Check:*

The pharmacy holds the master repeatable prescription

The master repeatable prescription is in date

Pharmacy holds the batch issue, or the patient sends it in

Batch issues are presented in numerical order (batch issues are indicated as number 1 of 12, 2 of 12 etc.) in the space normally used for signing There is no legal requirement to dispense in numerical order, but it is good practice and helps avoid confusion

Any problems on the original master repeatable prescription are corrected and reflect in batch issue

If the patient requires all items, is using medicines, appliances or reagents properly, and is not suffering any side-effects

There have been no changes in patient's circumstances since the last supply, e.g.: Hospital admission

Hospital outpatient clinic visit

New symptoms

Taking OTC medicines

If there is any concern about the safety or appropriateness of a repeat prescription:

Contact the patient and advise them to make an appointment with the GP

Contact the GP (or other health care provider) directly

If the patient doesn't want all items or the full quantity, record what has been given via:

PMR

Endorsing batch issue appropriately

Endorsing the master repeatable prescription with the date of supply."

7.49 Whilst the Committee noted the information provided on how the repeat dispensing service would be delivered to existing patients, there was no information explaining how patients who may benefit from the service would be identified or informed.

7.50 The Committee was therefore not satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 9(4) of Schedule 4.

Prescription linked intervention

7.51 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.

7.52 The Committee noted that SOP, 'Self Care and Healthy Lifestyle Promotion' states:

7.52.1 "*Ensure that customers and their families are given the most appropriate advice to support their own health and wellbeing, including*

signposting to appropriate organisations and promotion of a healthy lifestyle ***(Such links and information will also be on the pharmacy website)***

…

All advice will be provided via email, telephone or using leaflets – ***The website will also have links to leaflets and patients will have links sent securely by either email/message/WhatsApp in relation to appropriate signposting/healthy lifestyle material.***

…

Long Term Conditions

Check if it is appropriate to give advice and support

Yes – identify relevant ICB/NHS campaign Provide leaflets and advice on campaign issues, and record advice provided via email or telephone on the PMR

If no ICB/NHS campaign is running, provide relevant advice or supply leaflets

No – refer to relevant health or social care provider or support organisation and made a record on the PMR"

7.53 The Committee noted that although the Applicant does mention providing interventions to those patients with underlying health conditions, the Committee noted the information provided does not show how patients will be identified as being eligible for prescription linked intervention or specifically how any interventions will be discussed with them.

7.54 The Committee was therefore not satisfied that it had been provided with information sufficient to show that there would be compliance with paragraph 17 of Schedule 4.

7.55 In relation to all other essential services, the Committee was, on balance, satisfied that procedures adopted by the pharmacy (and general adherence to the Terms of Service) would be "likely to secure" safe and effective provision.

Summary

7.56 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).

7.57 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:

7.57.1 confirm the Commissioner's decision;

7.57.2 quash the Commissioner's decision and redetermine the application;

7.57.3 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.

7.58 Although the decision reached by the Committee is ultimately the same as the Commissioner, it has reached that decision for different reasons. Therefore, the Committee determined that the decision must be quashed.

7.59 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.

7.60 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.

7.61 The Committee concluded that further notification under paragraph 19 of Schedule 2 would not be helpful in this case.

8 Decision

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

8.2 The Committee:

8.2.1 quashes the decision of the Commissioner; and

8.2.2 redetermines the application as follows -

8.2.2.1 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;

8.2.2.2 the Committee was not satisfied that all essential services were likely to be secured without interruption during the opening hours;

8.2.2.3 the Committee was not satisfied that all essential services were likely to be secured for persons anywhere in England;

8.2.2.4 the Committee was not satisfied that pharmaceutical services were likely to be secured in a safe and effective manner; and

8.2.2.5 the Committee was satisfied that pharmaceutical services were likely to be secured without face to face contact.

8.2.3 The application is refused.

Case Manager
Primary Care Appeals