

2 March 2026

REF: SHA/ 26796

**APPEAL AGAINST DORSET ICB DECISION
REGARDING A BREACH NOTICE AT 26
ABBOTSBURY ROAD, WESTHAM, WEYMOUTH,
DORSET, DT4 0AE**

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:
Weymouth Pharma Ltd t/a Weymouth Pharmacy
Dorset ICB

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1 The Breach Notice

A Breach Notice dated 12 November 2025 was sent to Weymouth Pharma Ltd t/a Weymouth Pharmacy ("the Appellant") in respect of 26 Abbotbury Road, Westham, Weymouth, Dorset, DT4 0AE

- 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 Dorset 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.
- 1.5 **BREACH NOTICE**
- 1.6 **Name of Contractor: Weymouth Pharma Ltd t/a Weymouth Pharmacy (FPN51)**
- 1.7 **Address of Premises: 26 Abbotbury Road, Weymouth, DT4 0AE (The Contractor)**

- 1.8 This is a Breach Notice issued by the Dorset 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").
- 1.9 Nature of the Breach Notice
- 1.10 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.
- 1.11 Statement of Reasons
- 1.12 The Community Pharmacy Workforce Survey was open for completion from 16 October 2024 to midnight 11 December 2024.
- 1.13 On 14 October 2024, the above pharmacy was emailed by the NHSBSA, via pharmacy.fpn51@nhs.net, with information on how to complete the survey and confirming the deadline for submission.
- 1.14 A further two reminders were sent by the NHSBSA, by the same means as above, on:
- 1.14.1 09 December 2024
- 1.14.2 11 December 2024
- 1.15 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:
- 1.15.1 29 October 2024
- 1.15.2 28 November 2024
- 1.16 Despite the reminders, the Community Pharmacy Workforce Survey was not submitted by the pharmacy by the midnight 11 December 2024 deadline.
- 1.17 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.
- 1.18 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)(iia) of the Regulations.
- 1.19 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.

- 1.20 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.

1.21 **Action Required**

- 1.22 The Contractor is required not to repeat the breach.

1.23 **Community Pharmacy Local**

- 1.24 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.

1.25 **Right of Appeal**

- 1.26 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:

1.26.1 NHS Resolution 8th Floor 10 South Colonnade Canary Wharf London E14 4PU.”

2 **The Appeal**

In an email dated 24 November 2025 addressed to NHS Resolution, the Appellant appealed against Devon ICB's ("the Commissioner") decision. The grounds of appeal are:

- 2.1 “I write to submit a formal appeal against the Breach Notice issued by NHS Dorset ICB, communicated on **12 November 2025**, concerning non-submission of the **Community Pharmacy Workforce Survey** by the deadline of **11 December 2024**

- 2.2 FPN51 Workforce Survey Breach

- 2.3 I respectfully request that NHS Resolution reconsider the issuing of this Breach Notice on the following grounds:

2.4 **Exceptional Mitigating Circumstances**

2.4.1 Technical issues with NHSmail access

2.4.2 Staffing shortages

2.4.3 Unexpected leave of key staff

- 2.4.4 A key member of staff left the business [sic], which left us very short-staffed, this led to the e-mail not being monitored, hence why this was missed and not actioned.

2.5 No Intentional Non-Compliance

- 2.5.1 The failure to submit the survey was **unintentional**, and at no point did the pharmacy intend to disregard its statutory responsibilities under Schedule 4 Part 4 paragraph 28(2)(e)(iiia) of the Regulations
- 2.5.2 We recognise the importance of the Workforce Survey in supporting national workforce planning and regret that the return was not submitted on time.

2.6 Corrective Action Taken Immediately

- 2.6.1 Since receiving the notice, the pharmacy has:
- 2.6.2 Reviewed internal governance processes;
- 2.6.3 Implemented stronger monitoring of regulatory and NHSBSA communications;
- 2.6.4 Assigned a dedicated responsible person for statutory submissions.
- 2.6.5 These measures ensure this situation will not reoccur.

2.7 Proportionality

- 2.7.1 Given the circumstances, the unintentional nature of the omission, and the immediate corrective actions taken, we respectfully argue that a Breach Notice is **disproportionate** and does not reflect the pharmacy's strong overall compliance record and commitment to NHS obligations.

2.8 Request

- 2.9 We therefore request that NHS Resolution:
 - 2.9.1 **Quash the Breach Notice**, or
 - 2.9.2 **Substitute it with a less severe outcome**, recognising the mitigating factors and corrective actions.

2.10 Conclusion

- 2.10.1 We remain committed to full compliance with the Terms of Service and regret the administrative oversight that led to this situation. We ask that the appeal be accepted in light of the explanations provided.
- 2.10.2 Please confirm receipt of this appeal. We would be happy to supply any additional evidence if required."

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 26 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 Dorset Integrated Care Board, (the ICB) to issue a breach to Weymouth Pharmacy (FPN51) 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 – FPN51 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 (page 3)
 - 3.1.2.5 Appendix 5 – SW CCHub November Bulletin (page 5)
- 3.1.3 The SW Committee on behalf of the Dorset 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)(iiia) (**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.FPN51@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 (SW CCHub) Pharmacy Bulletin where the deadline of midnight 11 December 2024 was reiterated. Bulletins with the reminders were sent to pharmacy.FPN51@nhs.net, on 29 October 2024 (**Appendix 4**, page 3) and 28 November 2024 (**Appendix 5**, page

5). As no submission was received from the Contractor for Weymouth 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 exceptional mitigating circumstances, including technical issues with NHSmail access. The SW Committee noted the survey window ran from 16 October 2024 to midnight 11 December 2024 and considered it unreasonable to believe that the Contractor had technical issues with NHSmail for nearly two months. Under the NHS Terms of Service (Schedule 4, Paragraph 29C) pharmacy owners must ensure their staff have access to, and are able to send and receive NHSmail from, the pharmacy shared NHSmail mailbox. The ICB has not been notified by the Contractor about it not meeting this term of service.

3.1.9 The Contractor also shared additional exceptional mitigating circumstances to include staffing shortages and unexpected leave of key staff. It was stated in the letter that “a key member of staff left the business, which left us very short-staffed, this led to the e-mail not being monitored, hence why this was missed and not actioned.” All community pharmacies need a business continuity plan to mitigate situations such as these and the SW Committee considers insufficient staffing to be an operational matter, rather than contractual.

3.1.10 A review of correspondence from this Contractor confirms there has been no communication with the ICB raising NHSmail or staffing issues during the survey window or requesting support from the ICB to complete the survey.

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 to 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)(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."

- 5.9 I note that Schedule 4, Part 4, paragraph 28(2)(e)(iiia) 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—

...

(iiia) 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.fpn51@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, 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: 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. In its appeal, it states that “*Exceptional Mitigating Circumstances*

Technical issues with NHSmail access

Staffing shortages

Unexpected leave of key staff

A key member of staff left the business [sic], which left us very short-staffed, this led to the e-mail not being monitored, hence why this was missed and not actioned. “

5.12 In response, the Commissioner states that “*The SW Committee noted the survey window ran from 16 October 2024 to midnight 11 December 2024 and considered it unreasonable to believe that the Contractor had technical issues with NHSmail for nearly two months. Under the NHS Terms of Service (Schedule 4, Paragraph 29C) pharmacy owners must ensure their staff have access to, and are able to send and receive NHSmail from, the pharmacy shared NHSmail mailbox. The ICB has not been notified by the Contractor about it not meeting this term of service. The Contractor also shared additional exceptional mitigating circumstances to include staffing shortages and unexpected leave of key staff. It was stated in the letter that “a key member of*

staff left the business, which left us very short-staffed, this led to the e-mail not being monitored, hence why this was missed and not actioned.” All community pharmacies need a business continuity plan to mitigate situations such as these and the SW Committee considers insufficient staffing to be an operational matter, rather than contractual. A review of correspondence from this Contractor confirms there has been no communication with the ICB raising NHSmail or staffing issues during the survey window or requesting support from the ICB to complete the survey”. 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. As commented on by the Commissioner, the survey window was open for nearly two months so if the Appellant experienced technical issues during this period, I consider it reasonable for the Appellant to have taken steps to try and resolve the issue but I note I have not been provided with any evidence to this effect nor has any evidence been provided to explain the extent of the “*technical issues*” it experienced. Further, the Regulations do not allow for any discretion of these terms of services for staff shortages nor for if the Appellant’s failure to submit the survey was unintentional. As highlighted by the Commissioner, in accordance with its terms of service, the Appellant should have a business continuity plan to deal with any unexpected staff absences. I also note that the Commissioner has confirmed that the Appellant did not inform the Commissioner of the purported issues it was experiencing at the time.
- 5.15 I have had regard to the steps the Appellant has taken as a result of the Breach Notice and note its comments in relation to proportionality. Whilst the corrective action is 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 and, as such, it was proportionate to issue a breach notice.
- 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**