

6 March 2026

REF: SHA/26799

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**APPEAL AGAINST LEICESTER,
LEICESTERSHIRE AND RUTLAND ICB DECISION
TO REFUSE AN APPLICATION FOR CHANGE OF
OWNERSHIP IN RESPECT OF ETHEL ROAD
PHARMACY, 174 ETHEL ROAD, LEICESTER, LE5
4WE**

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:

Ethel Road Healthcare Ltd
PCSE on behalf of Leicester, Leicestershire and Rutland ICB

REF: SHA/26799

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Email: nhsr.appeals@nhs.net

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TO REFUSE AN APPLICATION FOR CHANGE OF
OWNERSHIP IN RESPECT OF ETHEL ROAD
PHARMACY, 174 ETHEL ROAD, LEICESTER, LE5
4WE**

1 The Application

By application dated 7 June 2025, Ethel Road Healthcare Ltd (“the Applicant”) applied to Leicester, Leicestershire and Rutland ICB (“the Commissioner”) for a change of ownership from Imaan Ltd in respect of 174 Ethel Road, Leicester, LE5 4WE. In support of the application it was stated:

- 1.1 “There will be no interruption to service provision. The pharmacy will continue to operate from the same premises, with the same core opening hours and staffing levels. Handover arrangements have been planned to ensure a smooth transition on the change of ownership date, and all necessary systems to support the service provision will remain in place to ensure continuity of care for patients.”

Opening Hours

1.2 Core opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9am – 1pm	9am – 1pm	9am – 1pm	9am – 1pm	9am – 1pm	None	None	40 hours
2pm – 6pm	2pm – 6pm	2pm – 6pm	2pm – 6pm	2pm – 6pm			

1.3 Total opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9am – 1:20pm	9am – 1:20pm	9am – 1:20pm	9am – 1:20pm	9am – 1:20pm	None	None	45 hours
2pm – 6pm	2pm – 6pm	2pm – 6pm	2pm – 6pm	2pm – 6pm			

- 1.4 In response to “In my/our view this application should not be refused pursuant to Regulation 31 for the following reasons”, the Applicant stated:
- 1.5 “N/A – this is a change of ownership.”
- 1.6 The Applicant confirmed by ticking “Yes” that the services they are undertaking to provide are the same as those that the current owner is providing.
- 1.7 The Applicant confirmed by ticking “No” that there would not be any interruption to service provision.
- 1.8 The Applicant confirmed by ticking “No” that they were not applying for a change of ownership in relation to distance selling premises.”

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 10 November 2025 states:

- 2.1 “We have considered the above application, and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.
- 2.2 You have a right of appeal to the Secretary of State against Leicestershire and Rutland 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:
- 2.3 Primary Care Appeals, NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU”

Extract from PSRC report

- 2.4 “As the applicant is not already included in the pharmaceutical list for the area of Leicester City Health and Wellbeing Board in respect of other premises, it had determined that it is a fit and proper person to be so included should the application be granted.
- 2.5 **Regulation 31 – refusal: same or adjacent premises**
- 2.6 **Regulation 31(2)(a)**
- 2.7 Applies as Imaan Limited (Ethel Road Pharmacy) is currently included in the pharmaceutical list for the area of Leicester City HWB in respect of the pharmacy premises at 174 Ethel Road, Leicester, LE5 4WE, and will be providing pharmaceutical services from these premises.
- 2.8 **Regulation 31(2)(b)**
- 2.9 There is no degree of shared ownership or control of the applicant and the current contractor – the directors of both bodies’ corporate are different, the two bodies corporate have different registered offices, and the superintendents are different.

- 2.10 It is concluded regulation 31 (2) (b) does not apply, and therefore the committee is not required to refuse the application by virtue of regulation 31.
- 2.11 **Regulation 26 Change of ownership applications**
- 2.12 **Regulation 26 (1)(a)(i)**
- 2.13 The premises listed in the application are included in the relevant pharmaceutical list and are therefore listed chemist premises.
- 2.14 **Regulation 26 (1)(a)(ii)**
- 2.15 It is concluded that this regulation is met as pharmaceutical services are already being provided from the same premises.
- 2.16 **Regulation 26 (1)(b)**
- 2.17 It is concluded that this regulation is met as the Applicant is continuing to provide pharmaceutical services from the same premises.
- 2.18 **Regulation 26 (1)(c)**
- 2.19 It is concluded that this regulation is not met as the Applicant is not undertaking to provide the same services as those already being provided by the current owner.
- 2.20 **Regulation 26(1)(d)**
- 2.21 It is concluded that this regulation is met as the provision of pharmaceutical services will not be interrupted
- 2.22 **Regulation 66 - Conditions Relating to Providing Directed Services**
- 2.23 The applicant has provided a declaration in section 6.1 of the application to state that they will not provide the same services as those provided by the current owner.
- 2.24 List all the Enhanced and Advanced services that the existing owner undertakes
- 2.25 The applicant has also undertaken to provide the following additional services.
- 2.25.1 New Medicine (NMS)
 - 2.25.2 CPCS
 - 2.25.3 Smoking Cessation Service
 - 2.25.4 NHS Flu vaccinations
 - 2.25.5 Care Home Service
 - 2.25.6 Home Delivery Service

2.25.7 Minor Ailments Scheme

2.25.8 Hypertension Case Finding Service

- 2.26 Regulation 66(4) therefore applies if the application is to be granted, and the inclusion of the applicant and the pharmacy premises in the pharmaceutical list for the area of Leicester City Health and Wellbeing Board would be subject to the condition set out in regulation 66(5).
- 2.27 The condition is that, at the pharmacy premises, the applicant must:
- 2.27.1 a) Provide the directed services mentioned in the application and
- 2.27.2 b) Not withhold agreement to a service specification for those services unreasonably.
- 2.28 If the ICB commissions the services from the applicant within three years of the date of either the grant of the application or, if later, the listing in relation to the applicant of the pharmacy premises, unless thereafter the ICB ceases to commission the services (if it has commissioned them).
- 2.29 For the services commissioned by the ICB and NHS England, If the application is granted, the Committee is to consider whether or not to specify a date by which the condition to provide these services is to take effect.
- 2.30 As this is a change of ownership the pharmaceutical need assessment will not be affected.
- 2.31 **Decision**
- 2.32 The applicant has not demonstrated that they are compliant with all elements of Regulation 26 as they have agreed within the application.
- 2.32.1 to provide the same opening hours
- 2.32.2 has confirmed that service provision will not be interrupted.
- 2.32.3 has confirmed that advanced and enhanced pharmaceutical services are not the same as what is currently provided by the current owners.
- 2.33 Regulation **26 (1)(c)** The committee noted that despite the Applicant stating in section 6.1 of the application that it undertakes to provide the same services as those that the current owner provides, on checking the directed services listed in section 4 of the application form the committee noted that these do not match those provided by the current owner. The committee noted that the Applicant could choose to provide more directed services than the current owner but must, as a minimum, list those directed services provided by the current owner.
- 2.34 The committee noted the provision within regulation 66(4) (Conditions relating to providing directed services). However, this would not address the situation because in section 4 of the application the Applicant has not undertaken to provide all the directed services that the current owner provides. If the

application were granted and the Applicant included in the relevant pharmaceutical list in respect of the premises listed in the application, then that inclusion could only be subject to the provision of the directed services listed in section 4 of the application form – the Committee cannot require the Applicant to provide directed services not listed in the application form.

2.35 The recommendation made by the committee would be to reject this application through Regulation **26 (1)(c)** and **Regulation 66(4)**, and therefore the application was **refused**.

2.36 Appeal rights were given to the applicant, Ethel Road Healthcare Ltd.”

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

3 **The Appeal**

In a letter dated 26 November 2025, Ethel Road Healthcare Ltd ("the Appellant") appealed against the Commissioner’s decision. The grounds of appeal are:

3.1 “I submit this appeal to formally challenge the refusal of our Change of Ownership (COO) application, communicated by NHS Derby and Derbyshire ICB, under Regulation 26(1)(c) of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

3.2 Grounds for Appeal

3.3 Misinterpretation of Service Continuity (Regulation 26(1)(c))

3.4 The decision asserts:

3.5 “The Applicant is not undertaking to provide the same services as those already being provided by the current owner.”

3.6 This conclusion is incorrect.

3.7 Our application very clearly confirms that all services currently provided will continue unchanged, as acknowledged in the decision report itself:

3.7.1 Section 6.1 of the application confirms continuity of services

3.7.2 Section 6.2 confirms no interruption to services

3.7.3 Core hours and opening arrangements are identical

3.8 This fully satisfies Regulation 26(1)(c).

3.9 Section 4 of the Application Does List the Directed Services Currently Provided

3.10 Section 4 of our Annex 1 form lists the following services:

3.11 NMS, CPCS, Smoking Cessation, Flu Vaccination, Hypertension Case Finding — all accredited and delivered at the premises.

- 3.12 These are precisely those directed services provided by Imaan Ltd, as set out in the decision report.
- 3.13 Where Minor Ailments was previously enhanced-service commissioned locally, it is now provided under Pharmacy First, which we will deliver in full.
- 3.14 Care Home Support and Home Delivery are not directed services and are therefore not required to be listed under Section 4 accreditation fields.
- 3.15 Procedural Unfairness – Failure to Request Clarification Before Refusal
- 3.16 No concerns were raised with us prior to decision, and no opportunity was provided to clarify or correct what is at most an interpretation issue.
- 3.17 Given the significant consequences of refusal, the Committee's failure to engage for clarification constitutes:
 - 3.17.1 Disproportionate decision-making
 - 3.17.2 Lack of procedural fairness
 - 3.17.3 Maladministration after already substantial delays
- 3.18 Business Prejudice
- 3.19 The prolonged delays followed by an avoidable refusal have:
 - 3.19.1 Obstructed legitimate change of ownership activity
 - 3.19.2 Risked commercial commitments
 - 3.19.3 Caused avoidable operational disruption
- 3.20 Urgent redress is required.
- 3.21 Requested Appeal Remedy
- 3.22 We request that NHS Resolution overturn the refusal and direct the ICB to grant the application, on the grounds that:
- 3.23 Regulation 26(1)(c) is satisfied
- 3.24 The Committee's findings were based on incorrect interpretation
- 3.25 The handling breached fairness and proportionality principles
- 3.26 Alternatively:
 - 3.26.1 Permit an immediate administrative amendment to Section 4,
 - 3.26.2 Followed by prompt approval without restating the full application process

- 3.27 Supporting Evidence Provided
- 3.28 Appendices supplied with this appeal:
- 3.29 A. Extracts from our submitted Annex 1 application
 - 3.29.1 Section 4 services table (Page 4)
 - 3.29.2 Section 6.1 confirmation of continuity (Page 7)
- 3.30 B. Extracts from the Decision Report showing the misinterpretation of service continuity
- 3.31 C. Scheduled service mapping confirming full continuity including Pharmacy First.”

4 **Summary of Representations**

This is a summary of representations received on the appeal.

- 4.1 The Commissioner
 - 4.1.1 “Thank you for your letter dated 08 December 2025, I am responding for the East Midlands Primary Care Team on behalf of Leicester, Leicestershire & Rutland Integrated Care Board and would like to make the following representations.
 - 4.1.2 **Relevant Regulations in respect of a change of ownership**
 - 4.1.3 The application for a change of ownership by Ethel Road Healthcare Ltd was reviewed by the Pharmaceutical Services Regulations Committee on 21 October 2025. The decision of the Committee was to refuse the application pursuant to Regulation 26 (1) (c) and Regulation 66 (4) of The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 were the reasons for the refusal were as follows: -
 - 4.1.4 **Regulation 26(1)(c) – Failure to Undertake to Provide the Same Pharmaceutical Services**
 - 4.1.5 The Committee concluded that the Applicant had not demonstrated compliance with all elements of Regulation 26(1). In particular, although the Applicant stated in section 6.1 of the application that it undertook to provide the same services as the current contractor, the Committee identified inconsistencies in the application:
 - 4.1.5.1 inconsistency in opening hours
 - 4.1.5.2 assertion that service provision would not be interrupted
 - 4.1.5.3 confirmation that advanced and enhanced services would differ from those currently provided.

4.1.6 On reviewing section 4 of the application form, the Committee noted that the directed services listed by the Applicant did not match those provided by the current owner. While an applicant may choose to provide *additional* directed services, it must, as a minimum, undertake to provide all directed services currently provided at the premises. The Applicant did not do so.

4.1.7 **Regulation 66(4) – Conditions Relating to Directed Services**

4.1.8 Regulation 66(4) applies where an application would otherwise be granted, and requires that inclusion in the pharmaceutical list be subject to the condition in Regulation 66(5), namely that the Applicant must:

4.1.8.1 a) provide the directed services listed in the application, and

4.1.8.2 b) not unreasonably withhold agreement to a service specification for those services.

The Committee noted that Regulation 66(4) could not remedy the deficiencies identified under Regulation 26(1)

4.1.8.3 c) This is because the Applicant had not undertaken to provide all directed services currently provided by the existing contractor.

4.1.9 If the application were granted, the Commissioner could only impose conditions relating to the directed services listed in the application form. The Committee cannot require the Applicant to provide directed services that it has not undertaken to provide.

4.1.10 **Committee Decision**

4.1.11 For these reasons, the Committee recommended refusal of the application under **Regulation 26(1)(c)** and **Regulation 66(4)**. The application was therefore refused.

4.1.12 Please find attached documents of a timeline for the applications and the PSRC decision letter and Committee paper.

4.1.13 I would like to take this opportunity to respond to any further representations provided by Ethel Road Healthcare Limited, Ethel Road Pharmacy, 174 ETHEL ROAD, LEICESTER, LE5 4WE.”

5 **Observations**

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

6 **Consideration**

6.1 The Pharmacy Appeals Committee (“Committee”) appointed by NHS Resolution, had before it the papers considered by the Commissioner.

- 6.2 It also had before it the responses to NHS Resolution's own statutory consultations.
- 6.3 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.
- 6.4 The Committee first considered Regulation 31 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations"), which states:

(1) A routine or excepted application, other than a consolidation application, must be refused where paragraph (2) applies.

(2) This paragraph applies where -

(a) a person on the pharmaceutical list (which may or may not be the applicant) is providing or has undertaken to provide pharmaceutical services ("the existing services") at or from -

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

(ii) adjacent premises; and

(b) NHS England is satisfied that it is reasonable to treat the services that the applicant proposes to provide as part of the same service as the existing services (and so the premises to which the application relates and the existing listed chemist premises should be treated as the same site).

- 6.5 The Committee noted that in Part 5 of the application form, the Applicant had stated: "N/A – this is a change of ownership."
- 6.6 The Committee considered that Regulation 31(2)(a) relates to where a person on the pharmaceutical list is providing pharmaceutical services from the premises to which the application relates. This is the case here as it is a change of ownership application.
- 6.7 The Committee further noted the comment from the Applicant that it needs to transfer the legal ownership from Imaan Ltd to Ethel Road Healthcare Ltd. Therefore, the Committee went on to consider Regulation 31(2)(b).
- 6.8 The Committee was mindful of the Judgement 'R (Pharmacy Care Plus) v Family Health Services Appeals Unit [2013] EWHC 824 (Admin)'. The Committee considered that this case would likely provide a guide to interpreting Regulation 31(2)(b). Having regard to it the Committee noted the following wording:

"It will almost always be an extremely relevant consideration to know whether or not there is any connection in terms of ownership and control between the entities who carry on the existing business and who propose to carry on the proposed new business. So, for example, if an existing business was owned by Company A and the proposed business was owned by Company B, and there was absolutely no

connection at all in terms of ownership and control between the two of them, it would be difficult to see how they could be regarded as providing the same service, even if the service which they were going to provide were complementary to each other. In contrast, if they were both to be provided by exactly the same company, then that would also be an extremely relevant consideration going the other way."

- 6.9 The Committee noted that the language used by Davies J was not such that if the services were to be provided by the same company this should be definitive but rather that it would be an "extremely relevant consideration". The Committee considered, therefore, that where an applicant is making a routine or excepted application, other than a consolidation application, and the premises to which the application relates, or the adjacent premises, are run by the same directors, then the starting point should be that the application should not be granted under Regulation 31(2)(b). This is on the basis that the connection between the existing and proposed pharmacies would be such that, in most circumstances, the condition set out in Regulation 31(2)(b) would be met.
- 6.10 The Committee considered that this is not an irrebuttable presumption and that circumstances might arise whereby, despite the close connection, the application may not need to be refused. The Committee specifically noted that Regulation 31(2)(b) includes a reasonableness element. It is not, therefore, merely factual but provides for some level of discretion in its application.
- 6.11 The Committee noted the Commissioner's conclusion in the decision report that there is no degree of shared ownership or control between the Applicant and the current contractor. In particular, the directors of the two corporate bodies are different, they have separate registered offices, and different superintendent pharmacists. On this basis, the Commissioner concluded that Regulation 31(2)(b) does not apply and that the application was therefore not required to be refused under Regulation 31.
- 6.12 The Committee agreed with this assessment and accordingly determined that refusal of the application under Regulation 31 was not required.
- 6.13 The Committee noted Regulation 26(1) (*Change of ownership applications*) of the Regulations, which reads:

"Section 129(2A) of the 2006 Act (regulations as to pharmaceutical services) does not apply to an application from a person who is not included in a pharmaceutical list for inclusion in the list, or from a person included in a pharmaceutical list for inclusion in that list also in respect of other premises than those already listed in relation to that person, if-

- (a) *the applicant (X) is undertaking to provide pharmaceutical services at or from premises-*
 - (i) *that are already listed chemist premises, and*
 - (ii) *at or from which another person (Y) is providing pharmaceutical services;*

- (b) *X is proposing to carry on at or from the listed chemist premises, in place of Y, the business in the course of which Y is providing pharmaceutical services at or from those premises;*
- (c) *X is undertaking to provide the same pharmaceutical services as those that Y is providing; and*
- (d) *the provision of pharmaceutical service at or from the premises will not be interrupted (except for such period as NHS England may for good cause allow)."*

6.14 The Committee noted that the Regulations are specific in the conditions an applicant must satisfy, if its proposed change of ownership is to succeed.

6.15 The Committee has considered each of these paragraphs in turn, applying them to the information provided in the application form, unless (in relation to any of those paragraphs) the Applicant has provided amended/updated information.

Regulation 26(1)(a)

6.16 The Committee noted there is no dispute that the application is in respect of listed chemist premises at Ethel Road Pharmacy, 174 Ethel Road, Leicester, LE5 4WE. The Committee was satisfied that this was sufficient for the purposes of paragraph (a).

Regulation 26(1)(b)

6.17 The Committee noted the Applicant is proposing to carry on at the listed premises in place of Imaan Ltd, the business in the course of which Imaan Ltd is providing pharmaceutical services at or from those premises.

6.18 The Committee further noted that the Commissioner had refused the application on the grounds that the Applicant was not offering to provide the same opening hours as the existing pharmacy. The information provided in the application form states:

6.19 "Core Opening Hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9am – 1pm 2pm – 6pm	9am – 1pm 2pm – 6pm	9am – 1pm 2pm – 6pm	9am – 1pm 2pm – 6pm	9am – 1pm 2pm – 6pm	None	None	40Hrs

6.20 "Total Opening Hours"

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9am – 1:20pm	9am – 1:20pm	9am – 1:20pm 2pm – 6pm	9am – 1:20pm	9am – 1:20pm	None	None	45Hrs

2pm – 6pm	2pm – 6pm		2pm – 6pm	2pm – 6pm			
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6.21 The Committee noted the total opening hours is 41.40, not 45.

6.22 The Committee had been provided with a copy of the current owner, Imaan Ltd's application, which outlined their opening hours as follows:

6.23 *"Core Opening Hours"*

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9:00– 13:00 14:00 – 18:00	9:00– 13:00 14:00 – 18:00	9:00– 13:00 14:00 – 18:00	9:00– 13:00 14:00 – 18:00	9:00– 13:00 14:00 – 18:00	None	None	40Hrs

6.24 *Total Opening Hours"*

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9:00– 13:00 13:20 – 18:00	9:00– 13:00 13:20 – 18:00	9:00– 13:00 13:20 – 18:00	9:00– 13:00 13:20 – 18:00	9:00– 13:00 13:20 – 18:00	None	None	43Hrs 20m

6.25 The Committee noted that the core opening hours proposed by the Applicant were the same as those set out in Imaan Ltd's application. However, it observed that the total opening hours differed from those currently provided by Imaan Ltd. The Committee considered that a change of ownership application should not be used as a means of circumventing the Regulations in order to alter a pharmacy's opening hours.

6.26 The Committee was not satisfied that this was sufficient for the purposes of paragraph (b).

Regulation 26(1)(c)

6.27 The Committee noted the Commissioner's view that the application should be refused on the grounds that the directed services provided by the current owner did not align with those listed in the application submitted by Ethel Road Healthcare Ltd. On this basis, the Commissioner concluded that the Applicant had not undertaken to provide all of the directed services currently provided by the existing contractor.

6.28 The Committee noted that the Commissioner had provided a timeline in its representations indicating that the Applicant had submitted two applications for the same address and by the same company. The Commissioner stated that the original application was withdrawn and supplied a copy of the revised application as part of its representations.

6.29 The original application included the following:

6.29.1 *“Please give details of any advanced and enhanced services you intend to provide. These details should include:*

confirmation that you are accredited to provide the services where that accreditation is a prerequisite for the provision of the services;

confirmation that the premises are accredited in respect of the provision of the services where that accreditation is a prerequisite for the provision of the services; and

a floor plan showing the consultation area where you propose to offer the services, where relevant. Where a floor plan showing the consultation area cannot be provided please set out the reasons for this.”

Service	Accredited to provide (Y/N/NA)	Premises accredited (Y/N/NA)	Consultation area (Y/N/NA)
NMS			
CPCS			
NHS Flu Vaccinations			
Smoking Cessation			
Care Home Service			
Home Delivery Service			
Minor Ailments Scheme			
Supervised Administration Service			
Hypertension Case Finding Service			
Extended Care Tier 1 – conjunctivitis			
Extended Care Tier 1 – UTI			
Extended Care Tier 2a – Insect Bites			
Extended Care Tier 2a – Impetigo			

Extended Care Tier 2a – Eczema			
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6.30 The updated application, provided within the Commissioner’s representations, states:

Service	Accredited to provide (Y/N/NA)	Premises accredited (Y/N/NA)	Consultation area (Y/N/NA)
NMS	Y	Y	Y
CPCS	Y	Y	Y
NHS Flu Vaccinations	Y	Y	Y
Smoking Cessation	Y	Y	Y
Care Home Service	Y	Y	Y
Home Delivery Service	Y	Y	Y
Minor Ailments Scheme	Y	Y	Y
Supervised Administration Service	Y	Y	Y
Hypertension Case Finding Service	Y	Y	Y
Extended Care Tier 1 – conjunctivitis Extended Care Tier 1 – UTI	N	N	Y
Extended Care Tier 2a – Insect Bites Extended Care Tier 2a – Impetigo	N	N	Y
Extended Care Tier 2a – Eczema	N	N	Y

6.31 The Committee had also been provided with the application form that had been submitted by the current owners of the pharmacy, Imaan Ltd, in February 2023, in which it lists the services it is accredited to provide:

Service	Accredited to provide (Y/N/NA)	Premises accredited (Y/N/NA)	Consultation area (Y/N/NA)
NMS	Y	Y	Y
CPCS	Y	Y	Y
NHS Flu Vaccinations	Y	Y	Y
Smoking Cessation	Y	Y	Y
Care Home Service	Y	Y	Y
Home Delivery Service	Y	Y	Y
Minor Ailments Scheme	Y	Y	Y
Supervised Administration Service	Y	Y	Y
Hypertension Case Finding Service	Y	Y	Y
Extended Care Tier 1 – conjunctivitis	Y	Y	Y
Extended Care Tier 1 – UTI			
Extended Care Tier 2a – Insect Bites			
Extended Care Tier 2a – Impetigo			
Extended Care Tier 2a – Eczema			

- 6.32 The Committee noted that where the current owner had indicated that it will provide “Extended Care Tier 1 – conjunctivitis”, the Applicant had indicated on its application form that it was not intending to provide this service as it had put “N” in the relevant column as to indicate that it was not accredited to provide this service. The Committee noted the Applicant’s comment on appeal that *“Where Minor Ailments was previously enhanced-service commissioned locally, it is now provided under Pharmacy First, which we will deliver in full. Care Home Support and Home Delivery are not directed services and are therefore not required to be listed under Section 4 accreditation fields.”* The Committee was unclear with regard to the Applicant’s reference to Minor

Ailments given the revised application had already indicated the Applicant would provide this service. The issue for the Committee was the directed services where the Applicant had indicated 'N'. In light of the unambiguous insertion of 'N', the Committee was of the view that it could not be satisfied that the Applicant intends to provide the same services as those provided by the existing pharmacy. The Committee was not satisfied that this was sufficient for the purposes of paragraph (c).

Regulation 26(1)(d)

- 6.33 On the information before it, the Committee was satisfied that were the actual change of ownership to take place, no interruption, as described in paragraph (d), would occur.

7 Summary

- 7.1 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 7.1.1 confirm the Commissioner's decision;
 - 7.1.2 quash the Commissioner's decision and redetermine the application;
 - 7.1.3 if it considers that there should be a further notification to the parties to make representations, quash the Commissioner's decision and remit the matter to the Commissioner.
- 7.2 Even though the outcome of the appeal is the same as that determined by the Commissioner, the Committee has made alternative findings. In these circumstances, the Commissioners' decision must be quashed.
- 7.3 The Committee went on to consider whether there should be a further notification to the parties as 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 remit the matter to the Commissioner) or whether it was preferable for the Committee to redetermine the application, in relation to Regulation 26(1). However, as a change of ownership application under Regulation 26(1) is not a notifiable application, then paragraph 19 of Schedule 2 of the Regulations did not apply to this appeal. Consequently, paragraph 9(1)(a)(iii) did not apply and the Committee was unable to remit the decision to the Commissioner.

8 Decision

- 8.1 The Committee quashes the decision of the Commissioner and re-determines the application.
- 8.2 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.
- 8.3 The Committee has determined that it should be refused on the following basis:

- 8.3.1 the Applicant is not proposing to continue in place of the existing contractor, the business in the course of which that contractor is providing pharmaceutical services at or from the same premises;
 - 8.3.2 the Applicant cannot provide the same pharmaceutical services as those that the existing contractor is providing; and
 - 8.3.3 that the provision of pharmaceutical services will not be interrupted (except for such period as the Commissioner may for good cause allow).
- 8.4 The application is refused.

Case Manager
Primary Care Appeals