



Resolution

8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU
Telephone: 020 7811 2700

June 2026
FOI_7888

The following information was requested on 12 May 2026:

Under the Freedom of Information Act 2000, I would like to request copies of documents and correspondence relating to the appeal decision concerning the application by PharmaDerma (or any associated applicant entity) for an NHS community pharmacy contract in Totnes, Devon, believed to relate to premises at or connected with Leatside Surgery.

In particular, I request:

- 1. The full written appeal determination or decision notice issued by NHS Resolution or the Pharmacy Appeals Unit.*
- 2. Any documents setting out the reasons for allowing the appeal and overturning the approval previously granted for the application.*
- 3. Any reports, briefing papers, assessment documents, recommendations, or internal summaries prepared for decision-makers relating to the appeal outcome.*
- 4. Any correspondence sent to the applicant, Devon Integrated Care Board, or interested parties which explains the reasoning behind the decision.*
- 5. Any documents identifying which provisions of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 were considered not to have been satisfied.*

If any part of this request is considered exempt from disclosure, please provide the remainder of the material and specify the exemption(s) relied upon.

Our Response

Thank you for your request for information. As your request relates to information which we hold in our capacity as a public authority, we have treated your request in line with the Freedom of Information Act 2000 ("FOIA"). Under the FOIA, we have two separate duties in relation to your request: (i) firstly, to confirm whether or not we hold the information you have requested; and (ii) secondly, if we do hold such information,

to provide you with a copy. We are required to comply with both of these duties, unless one or more of the exemptions contained within the FOIA applies.

With regard to our first duty, we confirm that we hold documentation relevant to:

“[the] application by PharmaDerma for an NHS community pharmacy contract in Totnes, Devon”.

Under the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("Regulations") NHS Resolution ("NHSR"), through its Primary Care Appeals service, is the body tasked with determining appeals against granted decisions such as the decision made by the Devon Integrated Care Board in relation to PharmaDerma.

With regard to our second duty, we have considered your request with reference to the legal principles of the FOIA.

Information relevant to points 1, 2, 4 and 5 of your request is already in the public domain. You can access NHSR's appeal determination at [26419-Pharmaceutical-Decision-Reg-18-Totnes.pdf](#).

The appeal determination contains both information which NHSR has deemed it appropriate and proportionate to make publicly available and a full explanation with reasons for granting the appeal which includes why the application did not meet the statutory test.

This, therefore, satisfies:

- 1. The full written appeal determination or decision notice issued by NHS Resolution or the Pharmacy Appeals Unit.*
- 2. Any documents setting out the reasons for allowing the appeal and overturning the approval previously granted for the application.*
- 4. Any correspondence sent to the applicant, Devon Integrated Care Board, or interested parties which explains the reasoning behind the decision.*
- 5. Any documents identifying which provisions of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 were considered not to have been satisfied.*

With regard to point 3 of your request, we have resolved to decline to provide you with the information you have requested in reliance on section 32(1) and/or 32(2) and/or 32(4) of the FOIA.

Section 32 provides public authorities with a lawful justification for withholding information which is contained within documents that have been created or are held for the purposes of court, inquiry or arbitration proceedings.

Consistent with guidance published by the Information Commissioner's Office ("ICO"), our view is that the purpose of section 32 is to ensure that courts and other public bodies responsible for conducting proceedings maintain control over information relating to proceedings, and the FOIA cannot be used to circumvent existing access and discovery regimes.

We have briefly addressed the specific requirements of sections 32(1) and (2) of the FOIA below:

- Section 32(1)(a) provides public authorities with a lawful justification for withholding information if it is created by a court, or a member of the administrative staff of a court for the purposes of proceedings in a particular cause or matter. The word "court" in this context includes any tribunal or body exercising judicial power. NHSR takes the view that its Primary Care Appeals service operates as a court when it determines appeals under the Regulations.
- NHSR is satisfied that the information you have requested was created by a member of NHSR's staff for the purposes of assisting the appeal decision in the PharmaDerma case. As such, NHSR relies on section 32(1)(c) as providing it with a lawful justification for withholding it.
- Section 32(2)(b) provides public authorities with a lawful justification for withholding information contained within a document created by a person conducting an inquiry or arbitration, for the purposes of that inquiry or arbitration. Section 32(4)(c) clarifies that "*inquiry*" means "*inquiry or hearing held under any provision contained in, or made under, an enactment*".
- NHSR is satisfied that its determination of the appeal qualifies as an inquiry for the purposes of section 32(4)(c). NHSR undertook an inquiry as to whether PharmaDerma case fulfilled the requirements of the Regulations, considered relevant information and gave a binding determination.

We trust that this response provides you with the information requested where possible, and explains clearly why we have not provided you with some of the information you have requested.

This concludes our response to your request.

If you are not satisfied with the service that you have received in response to your information request, it is open to you to make a complaint and request a formal review of our decisions. If you choose to do this, you should write to [Joanne Appleby](#), Deputy

Data Protection Officer for NHS Resolution, within 28 days of your receipt of this reply. Reviews of decisions made in relation to information requests are carried out by a person who was not involved in the original decision-making about the request.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner for a review of the decision. Generally, the Information Commissioner will not make a decision unless you have exhausted the local complaints procedure. The address of the Information Commissioner's Office is:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

<https://ico.org.uk/>