

GUIDANCE NOTE
Pharmacy Opening Hours
Part 3 of Schedule 4 of the National Health Service
(Pharmaceutical and Local Pharmaceutical Services) Regulations 2013

1. The terms of service for NHS pharmacists are set out in Schedule 4 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (the "Regulations"), as amended. All references to regulations, schedules and paragraphs in this guidance note are references to the relevant provisions of the Regulations at the time of writing, unless otherwise stated.
2. The terms of service in relation to a pharmacy's opening hours are set out in Part 3 of Schedule 4 which is set out in Appendix 1. While this guidance is designed to support appeals in relation to pharmacy opening hours under the Regulations, it cannot cover all circumstances and is not a substitute for the Regulations themselves, which contain the legal provisions.
3. This guidance note:
 - 3.1 provides an overview of the provisions in the Regulations relating to pharmacy opening hours; and
 - 3.2 outlines certain issues that commonly arise in pharmacy opening hours appeals and indicates how these issues have been determined by NHS Resolution.
4. This guidance note does not cover potential breaches of the Regulations where a pharmacy fails to open.
5. As at the date this guidance note was updated, 14 September 2026, there is no judicial guidance on the interpretation of Part 3 of Schedule 4.

Overview of pharmacy opening hours

6. Paragraph 23 of Schedule 4 states that an NHS pharmacist must ensure that pharmaceutical services are provided at the relevant pharmacy premises:
 - 6.1 for 40 hours each week;
 - 6.2 if a "100 hours condition" applies pursuant to Regulation 65(1), for not less than 100 hours each week (further clarified below); or
 - 6.3 if there has been a direction that pharmaceutical services are to be provided at the premises for greater or fewer than 40 hours per week on specified days and times, at the times and on the days specified therein.
7. Where premises remain subject to a 100 hours condition under Regulation 65(1) and (2), the condition requires the premises to be open for at least 100 hours each week. Following the 2023 amendments, Regulation 65(3A) was introduced, the commissioner may now remove a 100 hours condition and replace it with a direction,

but the replacement direction, and any later replacement direction, must still specify not less than 72 total core opening hours.

8. These hours during which a pharmacy is legally obliged to provide pharmaceutical services represent a pharmacy's "core opening hours", as described in paragraph 23(2) of Schedule 4. A direction in relation to core opening hours may be made pursuant to Regulation 65 or paragraphs 25 and 26 of Schedule 4 (or may have been made pursuant to previous versions of the Regulations).
9. If a pharmacy is to be open at hours that are in addition to its core opening hours, the pharmacist must notify the commissioner of these other hours. These are described as the pharmacy's "supplementary opening hours" (per paragraph 23(3) of Schedule 4).
10. The starting point, other than for a 100 hours pharmacy, is that a pharmacy must provide services for 40 hours a week. This can be deviated from where a direction is in place which requires the provision of hours beyond this. Paragraph 23(13) of Schedule 4 describes these as a pharmacy's "additional opening hours". They are a sub-class of core opening that the pharmacy is directed to provide which are additional to the 40 hours it would otherwise be required to open if such a direction were not in place. Simply, all "additional opening hours" are core hours, but not all core hours are "additional opening hours".
11. The commissioner is required to issue a direction as to a pharmacy's opening hours in certain circumstances such as Regulations 65(4) and 65(5). Regulation 65(4) applies where an NHS pharmacist is either seeking inclusion in the pharmaceutical list, relocation, or to open additional pharmacy premises, and has undertaken to provide more than 40 core hours (30 for NHS appliance contractors) and the application was granted on that basis.
12. Regulation 65(5) concerns circumstances where the commissioner invites an NHS chemist to increase its core hours and an agreement is reached to that effect, then the commissioner must issue a direction.
13. An application for inclusion in a pharmaceutical list must specify the proposed core opening hours and total proposed opening hours for the pharmacy. In addition, at the commissioner's request, a pharmacist must submit a return to the commissioner setting out the days and times at which the pharmacy is to be open. Changes to supplementary opening hours require a return to be submitted to the commissioner informing it of the change.
14. Paragraph 25 of Schedule 4 enables the commissioner to instigate a change to a pharmacy's core opening hours where it appears to the commissioner that the days and times at which the pharmacy is open will not, or no longer, meet the needs of the people in its area or other likely users of the pharmacy premises. It also requires the commissioner to issue a direction where the pharmacy would be open for more or less than 40 hours each week.
15. Paragraph 26 of Schedule 4 provides that a pharmacy may apply to the commissioner to change the days on which or times at which it is obliged to open. This may be an application to reduce the total number of hours at which the pharmacy is open each week or it may be an application to keep the total number of hours the same but change the days and times at which it is to open. This paragraph also requires the commissioner to issue a direction where one already exists, if the application would have the effect of increasing or decreasing the premises opening hours to more or less than 40 (or less than 100 in the case of 100 hour pharmacies).

16. **It should be borne in mind that there are two separate provisions under the Regulations which enable the pharmacy to apply to change the days on which or times at which it is obliged to open. These are paragraph 24(1) which is covered at sections 29 to 35 and paragraph 26(2ZB) which is covered at sections 36 to 41. Neither provision has greater weight than the other.**
17. Regulation 65A makes provision for continuity in respect of opening hours directions. Firstly, opening hours directions apply to any NHS chemist listed in relation to those premises, not just the NHS chemist to whom they were issued. Therefore, they will continue to bind a successor contractor. Regulation 65A also preserves continuity where the relevant pharmacy business is to be carried on from different premises. In the circumstances to which the regulation applies, an application to relocate must be refused unless the applicant undertakes to provide the same total number of core opening hours, on the same set days and at the same set times, so that equivalent directions fall to be issued in respect of the new premises. The same principle also applies where the relevant opening hours directions are directions that have replaced, at any stage, a 100 hours condition.
18. The remainder of this note considers various issues that have arisen in relation to pharmacy opening hours appeals and sets out how those issues have been determined by NHS Resolution.

Commissioner Instigated Changes In a Pharmacy's Core Opening Hours

19. Where the commissioner looks to instigate a change to a pharmacy's core opening hours under paragraph 25 of Schedule 4, the Regulations require the decision maker to consider the needs of the people in the area, or other likely users of the pharmacy, for pharmaceutical services and any changes to those needs. In an appeal of a decision by the commissioner taken under paragraph 25, NHS Resolution will therefore consider the relevant information provided by the parties as to the needs of the people and whether there has been a change in need.
20. NHS Resolution receives a large number of appeals relating to temporary changes of hours for specific periods under paragraph 25. Most common are appeals relating to the Christmas period. NHS Resolution's approach is to consider the information provided in relation to the needs of the people and determine whether it is satisfied that the change in hours will meet the needs of the people.
21. Under paragraph 25(6), when the commissioner notifies a pharmacy that it is directing that pharmacy to open, the commissioner must give reasons for the decision. NHS Resolution will therefore consider whether the commissioner has given sufficient reasons for the determination, including whether it has taken into account any representations from the pharmacy.
22. SHA/18616 (24 April 2017) is an example of NHS Resolution determining that the reasons provided by NHS England were not sufficient:

"I am mindful that NHS England is required by paragraph 25(6) of Schedule 4 to provide reasons for its decision. In my view, these reasons should set out the basis of any determination that days and times of opening will no longer be such as will meet the pharmaceutical needs of relevant persons and (if they are, such that a direction may be made) the assessment that led to the direction, taking into account any written representations from the pharmacist.

...

The letters [from NHS England to the pharmacy] provide me with no information which I consider sufficient to provide reasons on the basis of which I can confirm the decision, nor information upon which I might rely to make a direction for alternative reasons.

The letters explain the process which has taken place and the conclusions reached, but not the reasoning that lies behind the direction, in particular what regard was had to the days and times of opening and how these will no longer be such as they will meet the pharmaceutical needs of relevant persons and the assessment that led to the direction which is a requirement of the regulations."

23. This approach was followed in SHA/23284 (16 December 2019), in which NHS Resolution stated:

"Having reviewed the information provided it seems that NHS England has carried out an assessment but this assessment is more about which pharmacy is volunteering to open and which pharmacy has opened in the past rather than about what is needed for the people in the area and the other likely users of the pharmacy premises and which pharmacy(s) is/are best placed to provide to meet that need. I am of the view that it is the assessment of the need, in terms of providing services to patients, that should be assessed in the first instance.

...

I consider NHS England has explained the process which has taken place and the conclusions reached, but not the reasoning that lies behind the direction to this particular pharmacy, in particular what regard was had to days and times of opening and how these will no longer be such that they will meet the pharmaceutical needs of relevant persons and the assessment that led to the direction which is a requirement of the Regulations."

24. It is therefore important to distinguish between:

- 24.1 notification which sets out what the decision is and the process that has been followed in reaching that decision; and
- 24.2 notification which explains the actual reasoning behind how a decision has been reached.

25. SHA/18819 (26 February 2018) is an example of NHS Resolution upholding the commissioner's direction to a pharmacy to open on a day on which the pharmacy would otherwise be closed. The determination referred to a range of matters relied on by the pharmacy to challenge the commissioner's decision to direct the pharmacy to open:

"I note that NHS England states that it has reviewed which pharmacies have opened on previous bank holidays and have tried where possible to ensure that directing pharmacies to open has taken place on a fair shares basis according to local need. I also note that NHS England refers to its powers under paragraph 25 of the Terms of Service to direct pharmacies to open. I take no view on how NHS England has organised cover for bank holidays previously however I am mindful that it is the needs of people in its area or other likely users of the pharmacy premises which should be taken in to account when the assessment is made.

I note the comments from the Appellant regarding previous bank holidays that they have opened, however I note NHS England's comment that in each case the opening of the pharmacy has been due to a business decision by Tesco and not as a result of a direction or request from NHS England. I take no view on previous bank holidays in which the pharmacy was open, whether that was voluntary or directed by NHS England.

I note that NHS England has carried out an assessment prior to directing the appellant to open. In its assessment I consider that NHS England has demonstrated that there is a need for pharmaceutical services in the area by way of activity reports from the East Devon area last New Year, although I note that I have not been provided with a copy of those reports, however they are not challenged by the appellant and it is noted that NHS England refers to the Appellant's comment that "clearly a dispensing service may be required for emergencies" which in its view supports its assessment that there is a need for a pharmacy in Seaton to be open on New Years Day.

I note the Appellants comments that it has lived in Seaton for 21 years and the town is very quiet on New Years day until about 2pm and therefore suggested that a later time might be more appropriate to meet local needs, however no information is provided in support of this. However I also note the Appellant's comments to NHS England that it provided a dispensing service from 10am to 4pm in similar circumstances and actually it only did 2 prescriptions, although the appellant has not provided any detail as to the timing of the dispensing of these prescriptions. I am mindful also that the provision of services is wider than the dispensing of prescriptions.

I note that NHS England has made a subjective decision that 10 miles is the maximum distance that patients should have to travel in order to access a pharmacy on New Years Day. Without information to the contrary I am of the view that this is a reasonable assumption in the circumstances of this appeal. I also note that NHS England has considered where the next nearest pharmacies are open on New Years Day and the distances and travel times to those pharmacies, and there is some merit in having pharmacies open so that the majority of the population is equidistant to those pharmacies.

I note the Appellants concerns regarding the opening of its pharmacy due to the location within the main store, and that it considers it "more suitable for the customer journey to have a stand alone pharmacy open". However I am of the view that this is a matter for the Appellant to arrange appropriate security and staffing to facilitate access, in the event that they are required to open.

I also note the Appellant's concerns regarding its stock levels, however again I am of the view that this would be a matter for the Appellant to arrange for appropriate stocking levels as it would be at any other time.

I am of the view that NHS England has provided sufficient reasoning to support its decision to issue a direction to the Appellant to open on New Years Day."

26. The determination above includes a number of matters that the pharmacy sought to rely on which are summarised below with an indication of how NHS Resolution considers such matters:
 - 26.1 Arrangements in previous years – NHS Resolution usually determines that this is not relevant;

- 26.2 The commissioner's assessment of needs – NHS Resolution will be looking for evidence that an assessment was carried out and that this indicated a change in needs;
- 26.3 Level of use of the pharmacy in previous years for the specific day – NHS Resolution will be looking for evidence to support the pharmacy's comments on this; and
- 26.4 Other pharmacies' opening hours – NHS Resolution will consider information such as how far away those pharmacies are, when they are open and how persons access those other pharmacies.

Pharmacy Instigated Changes In a Pharmacy's Core Opening Hours

- 27. Paragraph 26(4) sets out the manner in which applications by pharmacies to change opening hours made under paragraph 26 are determined. Paragraph 26(4) states:

"(4) When it determines the application, NHS England must—

- (a) issue a direction (which replaces any existing direction) which meets the requirements of sub-paragraphs (4A), (5) and (6) and which has the effect of either granting the application under this paragraph or granting it only in part;*
- (b) confirm any existing direction in respect of the times at which P must provide pharmaceutical services at or from the pharmacy premises, provided that the existing direction (whether issued under regulation 65, this Part, the 2012 Regulations, the 2005 Regulations or the 1992 Regulations) would meet the requirements of sub-paragraphs (5) and (6); or*
- (c) either—*
 - (i) revoke, without replacing it, any existing direction in respect of the times at which P must provide pharmaceutical services at or from the pharmacy premises (whether issued under regulation 65, this Part, the 2012 Regulations, the 2005 Regulations or the 1992 Regulations), where this has the effect of granting the application under this paragraph or granting it only in part, or*
 - (ii) in a case where there is no existing direction, issue no direction."*

- 28. Where a pharmacy applies to change its core opening hours under paragraph 26, there are three possible bases on which the application may fall to be determined. The general approach is that the commissioner must seek to ensure the matters set out in paragraph 24(1), namely whether the proposed hours would maintain as necessary the existing level of service provision or, where that is unnecessary or not realistically achievable, a sustainable level of adequate service provision. There are, however, two exceptions to this general position. The first is under paragraph 26(2A), which provides for a mandatory grant route for certain current or former 100 hours pharmacies where statutory conditions are met. The second is in redistribution cases made under paragraph 26(1)(b), on or after 23 June 2025. In those circumstances an applicant can elect to have the application determined on the basis of sub-paragraph (2ZB), rather than paragraph 24(1). These applications concern whether people accustomed to

accessing pharmaceutical services at the premises are likely to benefit overall because they would be more likely to access those services during the proposed core opening hours.

The General Approach

29. Paragraph 24(1) provides the following:

- "24.— (1) *Subject to paragraph 26(2A) and except where paragraph 26(2ZB) applies, where NHS England issues a direction for setting any days or times for opening hours under this Part, or determines them without issuing a direction, it must in doing so seek to ensure that the days and times at which pharmacy premises are open for the provision of pharmaceutical services in the area in which the premises that are the subject of the direction are located are such as—*
- (a) to maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises; or*
 - (b) to maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.*
- (2) In considering the matters mentioned in sub-paragraph (1), NHS England—*
- (a) must treat any local pharmaceutical services being provided in its area as if they were pharmaceutical services being so provided; and*
 - (b) may have regard to any pharmaceutical services that are being provided in its area during supplementary opening hours.*
- (3) NHS England may only direct that an NHS pharmacist (P) may provide pharmaceutical services at or from premises for less than 40 hours in any week if it is satisfied that the provision of pharmaceutical services in its area is likely to be adequate to meet the need for such services at times when P is not providing pharmaceutical services.*
- (4) Except in the case of premises that have (at any time) been subject to a direction under regulation 65 or regulation 65 of the 2012 Regulations (core opening hours conditions), NHS England may only direct that P must provide pharmaceutical services at or from premises for more than 40 hours in any week where it is satisfied that P is to receive reasonable remuneration in respect of the additional opening hours for which P is required to provide pharmaceutical services (and any additional remuneration payable in accordance with a determination made as mentioned in regulation 91(6) in respect of those hours is "reasonable remuneration" for these purposes).*
- (5) Sub-paragraph (4) does not apply in circumstances where the direction is in respect of any premises in respect of which a 100 hours condition applies or has ever applied, or in respect of which a direction that replaced (at any distance in succession) a 100 hours condition applies."*

30. NHS Resolution will consider the evidence provided by the parties by reference to those matters, including whether the proposed opening hours will maintain the existing level of service provision or, where appropriate, maintain a sustainable level of adequate service provision. This is to be judged on the basis of the people in the area of the pharmacy premises or other likely users of the pharmacy. Further explanation of the evidential requirements are set out later in this guidance.
31. This method by which NHS Resolution will apply the above is explained clearly in SHA/26525 (28 May 2025):

"I will start by considering the application of paragraph 24(1)(a) and whether the proposed hours are such as to maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises. I will then consider the application of 24(1)(b) if that is required.

To properly assess the application against paragraph 24(1)(a), I need to determine the existing level of service provision. I then need to consider whether it is necessary to maintain the existing level of service provision. If it is necessary to maintain the existing level of service provision, I need to consider whether, despite the proposed change of hours, the existing level of service provision to people in the area or other likely users would be maintained, e.g. by nearby pharmacies being open and providing the same level of service provision.

If I consider it unnecessary to maintain the existing level of service provision or that it is necessary to maintain the existing level of service provision but doing so is not a realistically achievable outcome, then I need to consider paragraph 24(1)(b) and determine whether the proposed change of hours are such that a sustainable level of adequate service provision would be maintained."

32. Whilst the question of necessity arises under both paragraph 24(1)(a) and (b), the question of whether maintaining the existing level of service provision is not a realistically achievable outcome is a distinct issue which NHS Resolution will consider on the evidence provided. It is not enough that a pharmacy contends that the proposed hours would still provide an adequate or sustainable service. NHS Resolution must first be satisfied either that it is unnecessary to maintain the existing level of service provision or that doing so is not a realistically achievable outcome before it moves to consider the rest of paragraph 24(1)(b). A similar approach can be seen in SHA/26776 (4 February 2026), in which NHS Resolution stated:

"I note the general comments from the Applicant with regard to reasons why pharmacies in England have been applying to redistribute their opening hours. I further note the comments about the financial strain that is being placed on pharmacies. I consider that the Applicant is effectively relying on the second part of paragraph 24(1)(b), that maintaining the existing level of service provision is not a realistically achievable outcome. I consider that I need to determine if it is or is not a realistically achievable outcome and if I determine that it is, then I need to consider if the amended hours are such as to maintain a sustainable level of service provision.

On the point of whether maintaining the existing level of service provision is not a realistically achievable outcome, whilst I am sympathetic to the challenges being faced by pharmacies, and aware of the general pressures within the industry, I consider that no evidence has been put forward to support the

Applicant's statements with regard to their particular circumstances in respect of this criteria.

The wording of paragraph 24(1)(b) is such that maintaining existing service levels must not be realistically achievable before considering a sustainable level of adequate provision. I consider that this sets a fairly high bar as to the level of difficulty that the Applicant must find themselves in. I do not consider that sufficient evidence has been provided to indicate that the economic and practical viability of the current opening hours has been compromised. I therefore consider that maintaining the existing level of service is a realistically achievable outcome and therefore the Applicant cannot rely on paragraph 24(1)(b)."

33. Where an application redistributes, rather than reduces, total weekly core opening hours, the overall number of hours may remain unchanged. That does not, however, remove the need to consider the question of necessity under paragraph 24(1). If the proposal removes services from particular days or time periods, NHS Resolution may still need to consider whether it remains necessary to maintain the existing level of service provision at those times and, if so, whether that level would continue to be maintained notwithstanding the redistribution. An appellant will need to demonstrate how the hours will be maintained in such a scenario. In SHA/26525 (28 March 2024), which concerned a redistribution of hours without a reduction, NHS Resolution stated:

"In considering whether it is necessary to maintain the existing level of service provision, I note that the Applicant is not looking to reduce the number of hours each week that services are provided. Therefore from a pure "number of hours of service provision each week" perspective, the existing level of service provision is maintained such that consideration of whether it is necessary to maintain the level of service provision is not needed.

However, the Applicant is applying to change the times that services are provided meaning that they will no longer be providing services on weekday mornings. I consider it appropriate to determine if it is necessary to maintain the existing level of service provision and then, if deemed necessary, consider if the opening hours of other pharmacies mean that it is maintained."

34. A number of appeals have been allowed under paragraph 24(1) and these are listed at Appendix 2, along with extracts from some determinations. Full decisions are available at [PCA Decisions Archive - NHS Resolution](#) for three years following which they can be requested via nhsr.appeals@nhs.net.
35. A further matter which must be borne in mind relates to applications where the pharmacy provides core opening hours exceeding 40 hours per week. In this regard, in appeal 26074 (15 January 2024), NHS Resolution determined the following:

"I therefore determine that the Commissioner was able to determine the Applicant's core hours, without issuing a direction as per paragraph 24(1) and by applying the legal test set out in paragraph 24(1). I note that the Commissioner applied the legal tests in paragraph 24(1) but refused the application indicating that the reduction to 40 core opening hours should focus on reducing hours during the week rather than Saturday.

I have indicated that I am minded not to agree the change of the Applicant's core opening hours on the basis of a lack of information on various points. That would usually mean I would confirm the decision of the Commissioner albeit for slightly different reasons. But that would leave me in the unwelcome position

of making a determination that the Applicant must continue to provide services for more than 40 hours a week without a direction.

That is not satisfactory but, in this novel situation unforeseen by the Regulations, I consider that I have little choice. I cannot determine the 40 core opening hours on the basis of the information provided despite being enabled by the new wording in paragraph 24(1) to do so. I would urge the Applicant to gather information as to the use of the pharmacy at different days and times and apply again to change its core hours which should then enable the Commissioner to make an assessment of the most appropriate 40 core opening hours. The Commissioner can then make a determination by applying the legal tests in paragraph 24(1). Provided the level of information is adequate, the Commissioner can make that determination”.

Applications to Keep the Total Number of Hours The Same under paragraph 26(2ZB)

36. If the applicant requests that the application is determined on the basis of paragraph 26(2ZB), paragraph 24(1) does not apply and NHS Resolution will instead consider whether the evidence shows that people accustomed to accessing pharmaceutical services at the pharmacy premises are likely to benefit from the proposed changes because, overall, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours.

37. The test applied by NHS Resolution can be seen in SHA/26747 (5 January 2026):

"I will consider the application of paragraph 26(2ZB) and whether the proposed hours are likely to benefit the people who are accustomed to accessing pharmaceutical services at the pharmacy premises, such that they would be more likely to access those services during the proposed opening hours.

To properly assess the application against paragraph 26(2ZB), I need to determine the level of demand for pharmaceutical services at the pharmacy premises. I then need to consider whether patients accustomed to accessing those services would be more likely to access services at the pharmacy premises during the proposed opening hours rather than the existing opening hours.

...

As a starting point I note that the language of paragraph 26(2ZB) relates to why a change in hours is being requested. The reason for the change must at the very least include that those individuals who already use the pharmacy will be more likely to do so during the changed hours. The Regulations do not explain how this should be established but I consider that it must form at least part of the explanation and evidence provided by the Applicant."

38. NHS Resolution will have regard to the nature of representations put forward in an appeal under this sub-paragraph, and consider only those aspects relevant to sub-paragraph 26(2ZB). This includes considering whether the motivations behind the changes align with benefiting the people who are accustomed to accessing services at the premises. In SHA/26747 (5 January 2026), specific note was made on the need for the changes due to the pharmacy's circumstances:

"Having reviewed the application and the appeal I note that the Applicant's central motivation for the change appears to be motivated by staffing difficulties and financial matters. Whilst I consider that these reasons are important to the pharmacy, they are not relevant to paragraph 26(2ZB). I note that paragraph

26(2ZB) is concerned with a situation whereby hours are being redistributed for the benefit of pharmacy users, rather than the pharmacy itself."

39. Further, NHS Resolution will not have regard to matters which would be relevant under paragraph 24(1), such as the availability of services elsewhere. Instead, such information may be considered detrimental to the appellant due to its implications. SHA/26747 (5 January 2026) illustrates this point also:

"I note that the Applicant has stated that there are other pharmacies open during its proposed closed hours that pharmacy users could instead visit. It has also provided distances to these other pharmacies along with information regarding public transport. I note that this information is more relevant to the considerations under paragraph 24(1), which the Applicant has opted not to rely on. I consider that in the context of paragraph 26(2ZB), however, such information is detrimental to the Applicant. When read contextually, the inclusion of this information suggests that the proposal is not aimed at providing better access to services at the pharmacy for those that are accustomed to using the pharmacy during the hours which it is proposing to close and instead, the intention appears to be that they will seek the provision of services elsewhere.

I note the Applicant's comments that it already provides longer weekday opening hours than other nearby pharmacies that are closed on Saturdays and further that "By closing on a Saturday, we will simply be aligning our operating model with that of other local providers, without reducing overall patient access." I do not consider that this is a relevant consideration under paragraph 26(2ZB)."

40. For current or former 100-hour pharmacies, the starting point remains the same as explained above. If the proposal does not reduce the protected hours or otherwise engage the specific restrictions in paragraph 26(4A), the application will still fall to be considered under the ordinary route that applies to it, whether that is the general approach under paragraph 24(1) or, where applicable, paragraph 26(2ZB). The additional points below deal in more detail with the situation where premises are, or have been, subject to the 100 hours regime.
41. So far one appeal has been allowed under paragraph 26(2ZB) and this is listed at Appendix 2, along with an extract of the determination. The full decision is available at [PCA Decisions Archive - NHS Resolution](#) for three years following which it can be requested via nhsr.appeals@nhs.net.

Where a 100 hours condition applies

42. A 100 hours condition will apply if the pharmacy's application for inclusion in a pharmaceutical list was granted on the basis that the pharmacy agreed to open for at least 100 hours per week pursuant to regulation 13(1)(b) of the National Health Service (Pharmaceutical Services) Regulations 2005. Historically, this was treated as a fixed feature of the listing rather than something that could be altered through the usual mechanisms for changing opening hours.
43. Since 25 May 2023, the position is no longer that of an unqualified prohibition, but neither is it a general discretion to reduce 100-hour opening. The Regulations now contain an express mechanism by which a 100-hour condition may be removed, but only subject to a minimum number of core hours, and tightly defined rules which determine when reductions in the total number of core opening hours must be accepted and when they are prohibited.

44. Regulation 65 remains the starting point. It provides that, where the relevant 100-hour exemption route applied, the inclusion of the premises is subject to “the 100 hours condition”, and it defines that condition as follows:
- (1) *If an application to which regulation 13(1)(b) of the 2005 Regulations ... applied was granted, the inclusion in the pharmaceutical list of the person listed in relation to ... the premises ... is subject to the condition set out in paragraph (2) ('the 100 hours condition').*
 - (2) *The condition is that the premises must be kept open for at least 100 hours per week for the provision of pharmaceutical services.”*
45. The key change is that Regulation 65 now also provides an express route for removal of the 100 hours condition, but only on terms that preserve a statutory minimum. Regulation 65(3A) provides:
- (3A) *NHS England may remove a 100 hours condition in respect of premises of an NHS pharmacist and replace it with a direction under paragraph (4) or (5) or paragraph 25 or 26 of Schedule 4, but that direction, and any subsequent direction which replaces that direction ... must specify a total number of core opening hours of not less than 72.”*
46. Accordingly, even where a 100 hours condition is removed, the replacement position must still preserve at least 72 core opening hours. That statutory minimum is then mirrored in the detailed rules in paragraph 26 of Part 3 of Schedule 4. NHS Resolution will therefore consider, as part of the appeal, whether the proposed reduction results in total core opening hours of not less than 72.
47. Paragraph 26(2A) creates a defined category of application which, where its conditions are met, NHS Resolution must on appeal treat as one which the commissioner was required to grant. It applies where the application has the effect of reducing the total number of core opening hours to 72 or above for premises in respect of which a 100 hours condition applies or has ever applied, or where a direction has replaced such a condition at any distance in succession, but only where the proposed reduction does not erode the protected evening and Sunday elements. The provision states:
- “(2A) *In the case of an application for a direction under sub-paragraph (4) that has the effect of reducing, in the case of any premises in respect of which a 100 hours condition applies or has ever applied, or in respect of which a direction that replaced (at any distance in succession) a 100 hours condition applies, the total number of core opening hours to 72 or above, but without changing any or all of the following—*
 - (a) *the core opening hours on a Monday to Saturday at times between 5pm and 9pm;*
 - (b) *the core opening hours on a Sunday at times between 11am and 4pm, other than by way of the inclusion of, or a change to, a rest break which—*
 - (i) *is no longer than one hour, and*
 - (ii) *starts at least 3 hours after the start of the pharmacy’s opening hours and ends at least 3 hours before the end of the pharmacy’s opening hours; and*

(c) *the total number of core opening hours on a Sunday,*

NHS England must grant that application, and paragraph 24(1) does not apply to such an application."

48. Accordingly, where an appeal concerns an application which meets these requirements, the Regulations require that the application be granted. In those circumstances, the appeal does not turn on whether the proposed hours meet the needs of the people or other likely users of the pharmacy, because paragraph 24(1) is expressly disapplied.
49. The scheme therefore establishes a binary position in which a proposed reduction either satisfies the conditions in paragraph 26(2A) or it does not. Appeals under these provisions accordingly turn on whether those objective statutory criteria are met, rather than on an evaluative assessment of need or service provision. This can be seen in SHA/26160 (4 June 2024):

"I note that the reason for refusal stated by the Commissioner is due to failure by the Applicant to meet the criteria in Schedule 4, Part 3, paragraph 26 (4A) of the Regulations, in relation to reducing the number of core hours provided on a Sunday. As per the extract above, under this paragraph, the Commissioner must not issue a direction if doing so would have the effect of reducing the total number of core opening hours at the Applicant's premises on a Sunday.

I note that in its application to change core opening hours the Applicant listed its premises core opening hours on Sunday as being from 00:00-19:00, for a total of 19 hours. It is now applying to change this so that the premises are open from 09:00- 19:00 for a total of 10 hours. I, therefore, consider that the Applicant's total number of core opening hours on a Sunday are being reduced at the premises, and so the Commissioner must not issue a direction."

50. That does not mean that every application involving a current or former 100-hour pharmacy falls within paragraph 26(2A). Paragraph 26(2A) applies only where the application has the effect of reducing the total number of core opening hours to 72 or above, without changing the protected evening and Sunday core hours identified there. Where there is no such reduction, the application instead falls to be considered under the ordinary route explained above. The position for current or former 100-hour pharmacies will then require additional consideration, because paragraph 26(4A) may continue to restrict what direction can lawfully be issued.
51. The mandatory grant requirements in paragraph 26(2A) are mirrored in an express prohibition on the commissioner not to issue directions which would not meet those requirements in paragraph 26(4A). That provision states:

"(4A) NHS England must not issue a direction under sub-paragraph (4), or revoke without replacing it an existing direction under that sub-paragraph, if doing so would have the effect of reducing, in the case of any premises in respect of which a 100 hours condition applies or has ever applied, or in respect of which a direction that replaced (at any distance in succession) a 100 hours condition applies, any or all of the following—

(a) *the total number of core opening hours to below 72;*

- (b) *the core opening hours on a Monday to Saturday at times between 5pm and 9pm;*
 - (c) *the core opening hours on a Sunday at times between 11am and 4pm, other than by way of the inclusion of, or a change to, a rest break which—*
 - (i) *is no longer than one hour, and*
 - (ii) *starts at least 3 hours after the start of the pharmacy's opening hours and ends at least 3 hours before the end of the pharmacy's opening hours; and*
 - (d) *the total number of core opening hours on a Sunday,*
- and an application seeking such a change is not a valid application for the purposes of sub-paragraph (2B)."*

52. This distinction can be seen in NHS Resolution determinations dealing with applications to keep the total number of core opening hours unchanged at 100 hours. In SHA/26102 (1 February 2024), NHS Resolution said:

"The Applicant is seeking to keep the pharmacy open for 100 hours but redistribute those hours during the week. Given that the Applicant is not proposing to reduce the total number of core opening hours to 72 or above but wishes to maintain opening hours of 100 core hours a week, this application does not fall to be considered under paragraph 26(2A)."

53. Where an application falls outside paragraph 26(2A), NHS Resolution will consider it under the ordinary route explained above. For current or former 100-hour pharmacies, however, that is not the end of the matter. NHS Resolution will also consider whether the proposed redistribution would reduce any of the protected evening or Sunday core hours in paragraph 26(4A). If it would not, the application can then be considered in the usual way. If it would, paragraph 26(4A) may itself determine the outcome.

54. Where a current or former 100-hour pharmacy seeks to redistribute its core hours in a way that would reduce one of the protected elements in paragraph 26(4A), that may mean that the application cannot be granted at all. Where an existing direction is already in place, paragraph 26(4) requires the decision-maker, as part of determining the application, to issue a replacement direction, confirm the existing direction, or revoke the existing direction in the limited circumstances set out there. If no lawful replacement direction could be issued because the proposal would reduce protected evening or Sunday hours, that is fatal to the application, even if it were to hypothetically meet the requirements of either paragraph 24(1) or 26(2ZB) (as applicable).

55. This was addressed in SHA/26770 (3 March 2026). The Appellant argued that the commissioner should have made a decision that paragraph 26(2ZB) was met and then, separately, engaged in considering whether a suitable direction could be issued. NHS Resolution concluded that the question of whether a direction could be issued forms part of the determination, rather than being something to establish in isolation. NHS Resolution said:

"I consider that the Regulations establish that the issuing of the direction is part and parcel of the decision taken under paragraph 26(2ZB), not a separate step or independent consideration. Instead, whilst issuing the direction the Commissioner must seek to ensure specific outcomes. Therefore, I do not

consider that the Applicant has set out the "correct legal sequence" and instead I agree with the Commissioner's approach.

On this understanding, because the Commissioner "must" not issue a direction then the only determination that could be taken under paragraph 26(4) is for it to confirm the existing direction in respect of the times at which the Applicant must provide pharmaceutical services."

Information provided to support a change of core hours

56. NHS Resolution will consider whether enough information has been provided to satisfy it in relation to the relevant regulatory test either under paragraph 24(1), 25, or 26(2ZB), as set out above.
57. In SHA/26596 (20 June 2025), a Commissioner directed a pharmacist to provide pharmaceutical services over the Summer Bank Holiday on 25 August 2025. NHS Resolution determined that insufficient information had been provided by the Commissioner to explain the conclusion, as required under paragraph 25(6):

"In its representations on the appeal, the Commissioner provides its assessment that, on this Bank Holiday, as a minimum, dispensing services are required and that, due to GP practices being closed, patients will turn, or be referred, to community pharmacies. However, I am of the view that I have not been provided with any information to substantiate the view as to why the Appellant's pharmacy is the best placed in terms of access, geography or any other factor to meet any demand for pharmaceutical services. I have not been provided with any information as to why pharmaceutical cover may be required or why the hours of 10am to 12pm on Monday 25 August 2025 will provide this cover. The letter of 25 February 2025 from the Commissioner states "We consider that the current core opening hours may not meet the needs of people in the area or other likely users of the pharmacy premises for the following reasons: There is no pharmacy provision in the Derbyshire area on Summer Bank Holiday 25th August 2025 following requests for a pharmacy to volunteer." I am of the view however that there is no information from the Commissioner as to how directing pharmacies, taking into account those which have opened previously, provides a robust assessment of the need for pharmaceutical provision in terms of providing services to patients.

I am not satisfied with the Commissioner's approach in this regard and the Commissioner has provided no information to support the conclusion reached. Further, the Commissioner has not set out details of a robust assessment that lies behind the direction to this particular pharmacy, which is a requirement of the Regulations."

58. The level of information required needs to be sufficient for the basis of any determination of the Commissioner to be understood. It will need to set out why the relevant days and times of opening were no longer such as to meet the pharmaceutical needs of relevant persons and (if they were, such that a direction may have been made) the assessment that led to the direction, taking into account any written representations received from the pharmacist. In SHA/26658 (17 September 2025), a similar matter regarding opening on New Years Day, the Commissioner did provide enough information to satisfy NHS Resolution, though an important caveat is included where conclusions were not necessarily disputed by the Appellant:

"I note the direction letter stated "There has been no voluntary offer of pharmacy provision in the Sleaford area to meet the needs of people living in

the area on 1st January 2026. We have reviewed which pharmacies have opened on previous bank holidays to ensure that directing pharmacies to open has taken place on a fair share basis.

In its representations, the Commissioner goes on to explain further the reasoning behind the direction and the assessment that was carried out.

The Commissioner indicates that it reviewed the claim forms submitted by contractors who have previously opened on New Years Day within the Sleaford, North Hykeham, Bramwell, Metherringham, Navenby, Ruskington and Waddington – North Kesteven locality, and determined the level of cover required from the information provided regarding the number of patients accessing pharmaceutical services, the number of prescriptions dispensed and the number of patients requesting advice from a pharmacist. The Commissioner determined that the minimum hours required for sufficient pharmaceutical services cover is between 10am to 4pm (of which the Appellant has been directed to open 10am to 12noon). The Commissioner states that “This ensures that patients have access to these services on a day where public transport is not as easily accessible.

I note the Commissioner’s further comments when responding to the appeal, that “the pharmacy is located in proximity to an urgent treatment centre, (Sleaford Medical Group Urgent Care Unit). This proposed direction would bring benefits for patients as those attending the urgent treatment centre would not have to travel long distances to collect essential medications, especially on a public holiday when public transport is limited. This proposed direction would Pharmacy First [sic] can be directed or referred to your pharmacy, reducing unnecessary attendance at the urgent treatment centre and enabling focus on patients with the most urgent need.”

I note the Commissioner has also provided a map to show the areas which it considers as areas with the highest levels of health deprivation within the locality. The Commissioner therefore surmised that patients residing in or visiting these areas are likely to have an increased need to access pharmaceutical services on a day when other health care providers will be closed.

It is regrettable that the detail of its assessment was omitted from the direction letter. If the Appellant’s pharmacy is best placed to provide pharmaceutical services at the specified times, then this should have been explained in the direction letter. I do, however, note that the Appellant has not disputed the Commissioner’s comments relating to its premises location serving patients from other areas.”

59. The requirements relating to information are different for applications made under paragraph 26. This can be further subdivided into where the appeals are being decided on the basis of paragraph 24(1) or paragraph 26(2ZB).
60. SHA/26114 (24 January 2024) involved an Applicant who applied for approval from the Commissioner to amend the days and times at which pharmaceutical services were provided at the premises. The proposal was to increase the total core opening hours from 40 to 49 per week, with a revised distribution of hours across the week and the removal of pharmaceutical services on Sundays. NHS Resolution confirmed the approach of the commissioner, and set out the test for information:

"I therefore need to be provided with sufficient information to understand a range of matters, starting with the existing level of service provision. The references to days and times in paragraph 24(1) leads me to consider that the reference to "level" of service provision in paragraph 24(1)(a) is mainly focused on the days and times services are provided. I would point out that "level" of service provision could also refer to other characteristics of the service, such as types and range of services provided, geographical access to services provided, other aspects of physical access aside from location, and the quality of services provided.

The existing level of service provision has been outlined by the Applicant, in its own core hours provision, and by an indication of the total hours that pharmacies in the local area are open (i.e. both core and supplementary opening hours).

[...]

To determine whether it is necessary to maintain the existing level of service provision, I have had regard to the comments by the Applicant of those using the pharmacy. If I am satisfied that there is reliable evidence indicating no users of the pharmacy on/at the relevant days/times that the pharmacy wishes to close, this might support an argument that maintaining the existing level of service provision is not necessary."

61. Information put forward purporting to demonstrate whether it is necessary to maintain the existing level of service provision takes different forms. In SHA/26114 (24 January 2024), the Applicant provided evidence of NHS service use during the times during which it was proposing to close. NHS Resolution will take the position that, unless it is proven otherwise, there being any level of service provision may demonstrate the need to maintain the existing level of service:

"Having reviewed this information I note that during the data collection period in August 2023 there were 82 patients who received one form of pharmaceutical service or another. There was only one day, Wednesday 9 August 2023, where no pharmaceutical service was provided during the hours the Applicant is proposing to close. I am mindful that it is difficult to put this data into context as we do not know how many patients the Applicant sees each day. However, based upon the information before me the data shows a clear use of people using the pharmacy at the times the Applicant wishes to close, albeit low in numbers.

I consider, in relation to paragraph 24(1)(a), that it reasonable to take the position that unless I am provided with evidence to the contrary, I should consider that it is necessary to maintain the existing level of service provision."

62. The information required under paragraph 26(2ZB) is significantly different to this. In SHA/26793 (26 February 2026), the Applicant applied to the Commissioner to change the days and times at which it was obliged to provide pharmaceutical services, redistributing their core hours keeping the total number of core opening hours the same. NHS Resolution was not satisfied that sufficient information was provided:

"I therefore need to be provided with sufficient information to understand a range of matters. I consider a core question to be the benefit created because of increased availability to existing users. This can be broken down into three key elements: the first being that the change must be beneficial; the second

being that the new hours are more accessible, and the last, which unpins both aspects, is that this must be measured by the impact on people who are accustomed to accessing the pharmacy, not new users.

[...]

I have had regard to the comments by the Applicant of those using the pharmacy. If I am satisfied that there is reliable evidence indicating no users of the pharmacy on/at the relevant days/times that the pharmacy wishes to close, this might support an argument that those accustomed to accessing pharmaceutical services would be more likely to access those services during the proposed opening hours."

63. Much like paragraph 24(1), the type of evidence put forward in order to satisfy this requirement tends to vary in nature. Commonly surveys are put forward to demonstrate the preferences of pharmacy users, as was the case in SHA/26793 (26 June 2026). NHS Resolution will consider the evidential significance of the survey, the way in which information was collected and the results indicated:

"I note that I have not been provided with any information as to how the survey was carried out e.g. whether every interaction was captured. Further, I do not know details of who responded to the survey and whether those who were asked were habitual users or whether they were one-off users. In this regard I must be mindful that paragraph 26(2ZB) refers to those who are accustomed to accessing services at the pharmacy premises.

The Applicant states that "90%+ of weekly prescription volume is collected Monday-Friday" and that "Saturday demand represents less than 5% of weekly prescriptions and less than 10% of weekly call/footfall volumes." However, no supporting evidence has been provided to substantiate these figures or to explain the method used to obtain this data. Without this information it is difficult to make an assessment of the level of demand for pharmaceutical services.

Based on the Applicant's comments as well as the information provided to me, I consider it reasonable to take the position that there is demand for pharmaceutical services on a Saturday between 9am and 5pm.

I note the Applicant proposes opening hours of 9am to 5:30pm Monday to Friday; however, no evidence has been provided to demonstrate that individuals who currently use the pharmacy would be more likely to do so during these hours than under the existing arrangements. I note that the Applicant states in their appeal that "The simultaneous notification to redistribute supplementary hours ensures that total opening hours will remain substantially unchanged (lunchtime supplementary hours moved to 17:30-18:00 Mon-Fri and Saturday 09:00-14:00 supplementary retained if required" however, these hours are supplementary and as such may be altered by the Applicant giving notice to the Commissioner, in accordance with paragraph 23(6)(a) of Schedule 4 of the Regulations, without the need to make an application to the Commissioner.

I now need to consider if, the changes to hours are likely to be beneficial for those accustomed to accessing pharmaceutical services at the pharmacy premises because they are more likely to access services at those times. It is worth noting that evidence to demonstrate the actual level of demand might be relevant here.

Given that patients of the pharmacy already have the option and ability to attend the pharmacy during the period in which the Applicant is seeking to open as "core hours", namely between 9am to 1pm Monday to Friday, I am unsure how those who access services on a Saturday would benefit from the proposed weekday opening hours. Whilst I note that there is a demand for services during the week, without robust data regarding the above period compared to the position as it is now, it is difficult to draw conclusions regarding the demand for services.

In summary, if those who do access services on a Saturday were able to access the pharmacy during the week, these hours are already being provided and therefore I am unsure of what the actual effect of the change would be for those who are accustomed to accessing services on a Saturday.

I consider that evidence of demand would only form one part of the overall picture required to be established under paragraph 26(2ZB). Again, I am mindful of the use of the phrase "people who are accustomed" in the Regulations. I consider such language to be indicative of the fact that if there is demand, no matter how small, and if those individuals are likely to cease to use the pharmacy as a result of the changes, then this would be strongly indicative that the requirements of paragraph 26(2ZB) would not be met.

I note that no information has been produced by the Applicant which explains what will become of the patients who previously accessed the pharmacy on a Saturday. It is unclear from both the application and the appeal whether the new hours will benefit these people in any meaningful way. I have not been provided with information on why patients are using the pharmacy on a Saturday, which would assist an understanding of why they may use the new hours on other days. I consider that without such information the base assumption must be that this change is not likely to benefit those who are accustomed to accessing the pharmacy, and, if anything, it would appear to be to their detriment."

14 September 2026

Appendix 1

Part 3 of Schedule 4 of the National Health Service

(Pharmaceutical and Local Pharmaceutical Services) Regulations 2013

23. Pharmacy opening hours: general

- (1) Subject to paragraph 23A, an NHS pharmacist (P) must ensure that pharmaceutical services are provided at or from P's pharmacy premises—
- (a) for 40 hours each week;
 - (b) for not less than 100 hours each week, in the case of premises in respect of which a 100 hours condition applies;
 - (c) if NHS England or a Primary Care Trust, or on appeal the Secretary of State, has directed that pharmaceutical services are to be provided at or from the premises for fewer than 40 hours per week, provided that the person listed in relation to them provides those services at set times and on set days, at the times and on the days so set;
 - (d) if a Primary Care Trust, or on appeal the Secretary of State, has (under previous Regulations) directed that pharmaceutical services are to be provided at or from the premises for more than 40 hours per week, and at set times and on set days, at the times and on the days so set, subject to any variation in respect of a rest break in accordance with sub-paragraph (7)(bd); or
 - (e) if the NHS England or a Primary Care Trust, or on appeal the Secretary of State, has directed that pharmaceutical services are to be provided at or from the premises for more than 40 hours each week, but only on set times and on set days as regards the additional opening hours, or the core opening hours where paragraph 26(4A) applied to the issuing of the direction—
 - (i) for the total number of hours each week required by virtue of that direction, and
 - (ii) as regards the additional opening hours for which the person listed in relation to the premises is required to provide pharmaceutical services by virtue of that direction, at the days on which and times at which that person is required to provide pharmaceutical services during those additional opening hours, as set out in that direction, subject to any variation in respect of a rest break in accordance with sub-paragraph (7)(bd),but NHS England may, in appropriate circumstances, agree a temporary suspension of services for a set period, where it has received 3 months notice of the proposed suspension.
- (2) The hours during which pharmacy premises must be open by virtue of sub-paragraph (1) are referred to in these Regulations as “core opening hours”.
- (3) P must notify NHS England of other hours during which P's pharmacy premises are to be open, which are hours in addition to P's core opening hours (and which are referred to in these Regulations as “supplementary opening hours”).
- (4) Unless P is a distance selling chemist, at P's pharmacy premises P must exhibit—
- (a) notice specifying the days on which and times at which the premises are open for the provision of drugs and appliances (including times at which P is providing pharmaceutical services during supplementary opening hours); and
 - (b) at times when the premises are not open, a notice based on information provided by NHS England, where practicable legible from outside the premises, specifying—

- (i) the addresses of other NHS pharmacists and the days on which and times at which drugs and appliances may be obtained from those addresses, and
- (ii) the addresses of LPS chemists in the area, the type of local pharmaceutical services which those LPS chemists provide, and the days on which and times at which their premises are open.

(5) P must, on request, submit a return to NHS England setting out—

- (a) the days on which and times at which pharmaceutical services are provided at or from P's pharmacy premises (including times at which P is providing pharmaceutical services during supplementary opening hours); and
- (b) the pharmaceutical services which P ordinarily provides at or from those premises.

(6) Where P changes—

- (a) the supplementary opening hours of P's pharmacy premises; or
 - (b) the pharmaceutical services which P ordinarily provides at or from those premises,
- P must supply NHS England with a return informing it of the change before the change takes place.

(7) Where P has notified to NHS England (or, before the appointed day, a Primary Care Trust) the days on which and times at which pharmaceutical services are to be provided at or from P's pharmacy premises (for example, in a return under sub-paragraph (5) or (6) or in an application for inclusion in a pharmaceutical list)—

- (a) P must ensure that pharmaceutical services are provided at or from the premises to which the notification relates on the days and at the times set out in the notification (unless the notification has been superseded by a return, or a further return, under sub-paragraph (6));
- (ba) P must not change the days on which or the times at which pharmaceutical services are to be provided at or from those premises during core opening hours, except for making a change that—
 - (i) amounts to the inclusion of a rest break which is no longer than one hour, or a change to such a rest break—
 - (aa) on a Monday to Saturday, which starts at least 3 hours after the start of the pharmacy's opening hours and ends at least 3 hours before the end of the pharmacy's opening hours, or
 - (bb) on a Sunday, and
 - (ii) does not change the total number of P's core opening hours on a particular day,

Otherwise than as provided for, and in accordance with the procedures set out in paragraphs 25 and 26;

- (bb) P must not change P's supplementary opening hours in a way that reduces the time for which P's pharmacy is open before or after a rest break on a Monday to Saturday to less than 3 hours (if P wants to change the supplementary opening hours affected by this requirement, P must also change the time of the rest break);
- (bc) P must not change—
 - (i) the total number of P's supplementary opening hours in a way that either reduces or leaves the same the total number of P's supplementary opening hours, or
 - (ii) unless the change relates to an increase of the total number of supplementary opening hours, the days on which or the times at which pharmaceutical services are to be provided at or from P's premises during supplementary opening hours,

for a period of at least 5 weeks after the day on which that notification was received by NHS England, unless NHS England agrees otherwise; and

(bd) P must not change the days on which or the times at which pharmaceutical services are to be provided at or from those premises during core opening hours, in the case of making a change that—

(i) amounts to the inclusion of a rest break which is no longer than one hour, or a change to such a rest break—

(aa) on a Monday to Saturday, which starts at least 3 hours after the start of the pharmacy's opening hours and ends at least 3 hours before the end of the pharmacy's opening hours, or

(bb) on a Sunday, and

(ii) does not change the total number of P's core opening hours on a particular day,

for a period of at least 5 weeks after the day on which that notification was received by NHS England, unless NHS England agrees otherwise.

(7A) Paragraphs (ba) and (bd) of sub-paragraph (7) do not apply to changes to core opening hours of premises in respect of which a 100 hours condition applies or has ever applied, or in respect of which a direction that replaced (at any distance in succession) a 100 hours condition applies, and accordingly the core opening hours of such premises may only be changed in accordance with paragraph 25 or 26.

(8)

(9)

(10) Where there is a temporary suspension in the provision of pharmaceutical services by P because of illness or another reason beyond the control of P, P is not in breach of sub-paragraphs (1) and (7), or of paragraph 23A(5)(a), provided that—

(a) P notifies NHS England of that suspension as soon as practicable, in the manner required by paragraph 29D(2)(a) and wherever possible before the start of the suspension;

(aa) P uses all reasonable endeavours to implement the business continuity plan that P is required to have by virtue of paragraph 29D; and

(b) P uses all reasonable endeavours to resume provision of pharmaceutical services as soon as is practicable.

(11) Planned refurbishment of pharmacy premises is not a "reason beyond the control of P" for the purposes of sub-paragraph (10).

(12) For the purposes of calculating the number of hours that pharmacy premises are open during a week that includes Christmas Day, Good Friday, Easter Sunday or a bank holiday, it is to be deemed that the pharmacy premises were open on that day at the times at which they would ordinarily have been open on that day of the week.

(13) For the purposes of this Part, "additional opening hours", where they are required, are hours during which P is required to provide pharmaceutical services pursuant to subparagraph (1)(e) which are in addition to the hours during which P would be required to provide pharmaceutical services, if P were subject instead to the condition set out in subparagraph (1)(a).

23A. Local hours plans

(1) Where NHS England is satisfied that people in a particular area are experiencing, or are likely to experience, significant difficulty in accessing pharmaceutical services on a temporary basis for an identified period, NHS England may establish a local hours plan

with the NHS pharmacists in that area that are willing to participate in a local hours plan for that area.

- (2) NHS England must, prior to establishing a local hours plan, consult any local pharmaceutical committee for the area that comprises or includes the area of the plan, unless NHS England decides that it is not practicable to do so.
- (3) NHS England must notify any local pharmaceutical committee for the area that comprises or includes the area of a local hours plan that it establishes of the contents of that plan and any changes to it, including where further NHS pharmacists join or any NHS pharmacists cease to participate in the plan.
- (4) The local hours plan is to be of a specified duration, determined by NHS England, and is to contain the temporary opening hours agreed between NHS England and each of the participating NHS pharmacists (each participating NHS pharmacist agrees their own but not other participants' temporary opening hours).
- (5) NHS pharmacists that have agreed to participate in a local hours plan—
 - (a) must ensure that pharmaceutical services are provided at or from their pharmacy premises during the agreed temporary opening hours; and
 - (b) may cease to participate in the plan and return to their core and supplementary opening hours, provided that, subject to sub-paragraph (8), they have given the notice period for doing so that they have each agreed with NHS England as part of the plan.
- (6) NHS England may revise a local hours plan from time to time, including by allowing further NHS pharmacists to join, but any change to the plan that is a change to the temporary opening hours of an NHS pharmacist that is participating in the plan, or of their notice period as referred to in sub-paragraph (5)(b), must be agreed with that NHS pharmacist.
- (7) A local hours plan ceases to have effect on the expiry of its specified duration, determined by NHS England in accordance with sub-paragraph (4), unless NHS England revises the specified duration, in which case the new specified duration becomes the specified duration of the plan, and further revisions are then also permissible pursuant to this sub-paragraph.
- (8) If NHS England revises the specified duration of a local hours plan, an NHS pharmacist may cease to participate in the plan on the date that was the plan's expiry date, having given prior notice of their intention to do so, which may be of a shorter period than their agreed notice period where—
 - (a) the NHS pharmacist does not wish to participate in the plan beyond the expiry date that has been extended;
 - (b) the timing of the revision means it is not possible, or not reasonably practicable, for prior notice to be given for the agreed notice period; and
 - (c) the NHS pharmacist gives notice of their intention to cease to participate in the plan on the date that was the plan's expiry date as soon as it is reasonably practicable for them to do so.
- (9) While a local hours plan has effect, the core and supplementary opening hours that have temporarily been suspended may be changed in accordance with paragraphs 23(6) and (7), 25 and 26.

24. Matters to be considered when issuing directions in respect of pharmacy premises core opening hours

- (1) Subject to paragraph 26(2A) and except where paragraph 26(2ZB) applies, where NHS England issues a direction for setting any days or times for opening hours under this Part, or determines them without issuing a direction, it must in doing so seek to ensure that the days and times at which pharmacy premises are open for the provision of pharmaceutical services in the area in which the premises that are the subject of the direction are located are such as—
 - (a) to maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises; or
 - (b) to maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.
- (2) In considering the matters mentioned in sub-paragraph (1), NHS England—
 - (a) must treat any local pharmaceutical services being provided in its area as if they were pharmaceutical services being so provided; and
 - (b) may have regard to any pharmaceutical services that are being provided in its area during supplementary opening hours.
- (3) NHS England may only direct that an NHS pharmacist (P) may provide pharmaceutical services at or from premises for less than 40 hours in any week if it is satisfied that the provision of pharmaceutical services in its area is likely to be adequate to meet the need for such services at times when P is not providing pharmaceutical services.
- (4) Except in the case of premises that have (at any time) been subject to a direction under regulation 65 or regulation 65 of the 2012 Regulations (core opening hours conditions), NHS England may only direct that P must provide pharmaceutical services at or from premises for more than 40 hours in any week where it is satisfied that P is to receive reasonable remuneration in respect of the additional opening hours for which P is required to provide pharmaceutical services (and any additional remuneration payable in accordance with a determination made as mentioned in regulation 91(6) in respect of those hours is “reasonable remuneration” for these purposes).
- (5) Sub-paragraph (4) does not apply in circumstances where the direction is in respect of any premises in respect of which a 100 hours condition applies or has ever applied, or in respect of which a direction that replaced (at any distance in succession) a 100 hours condition applies.

25. Determination of pharmacy premises core opening hours instigated by NHS England

- (1) Where it appears to NHS England, after consultation with or having considered the matter at the request of the Local Pharmaceutical Committee for the area in which the premises are situated, that the days on which or times at which pharmacy premises are or are to be open for the provision of pharmaceutical services will not, or no longer, meet the needs of—
 - (a) people in its area; or
 - (b) other likely users of the pharmacy premises,for the pharmaceutical services available at or from those premises, it must carry out an assessment as to whether to issue a direction requiring the NHS pharmacist (P) whose

premises they are to provide pharmaceutical services at or from the pharmacy premises at set times and on set days (which may include Christmas Day, Good Friday and bank holidays).

- (2) Before concluding the assessment under sub-paragraph (1) NHS England must—
 - (a) give notice to P of any proposed changes to the days on which or times at which the pharmacy premises are to be open; and
 - (b) allow P 30 days within which to make written representations to NHS England about the proposed changes.
- (3) When it determines the outcome of its assessment, NHS England must—
 - (a) issue a direction (which replaces any existing direction) which meets the requirements of sub-paragraphs (4) and (5);
 - (b) confirm any existing direction in respect of the times at which P must provide pharmaceutical services at or from the pharmacy premises, provided that the existing direction (whether issued under regulation 65, this Part, the 2012 Regulations, the 2005 Regulations or the 1992 Regulations) would meet the requirements of subparagraphs (4) and (5); or
 - (c) either—
 - (i) revoke, without replacing it, any existing direction in respect of the times at which P must provide pharmaceutical services at or from the pharmacy premises (whether issued under regulation 65, this Part, the 2012 Regulations, the 2005 Regulations or the 1992 Regulations), or
 - (ii) in a case where there is no existing direction, issue no direction, in which case, by virtue of whichever of paragraph 23(1)(a) or (b) applies, the pharmacy will need to be open for 40 hours each week or for at least 100 hours each week.
- (4) Where NHS England issues a direction under sub-paragraph (3) in respect of pharmacy premises that are to be required to be open—
 - (a) for more than 40 hours each week, it must set out in that direction—
 - (i) the total number of hours each week for which P must provide pharmaceutical services at or from the pharmacy, and
 - (ii) as regards the additional opening hours, the days on which and the times at which P is required to provide those services during those hours, but it must not set out in that direction the days on which or times at which P is to provide pharmaceutical services during hours which are not additional opening hours; or
 - (b) for less than 40 hours each week, it shall set out in that direction the days on which and times at which pharmaceutical services are to be provided at the pharmacy premises.
- (5) NHS England must not issue a direction under sub-paragraph (3) that has the effect simply of requiring pharmacy premises to be open for 40 hours each week on set days and at set times (that is, the direction must have the effect of requiring pharmacy premises to be open for either more or less than 40 hours each week).
- (6) NHS England must notify P of any direction issued or any other action taken under subparagraph (3), and where it sets new days on which or times at which P is to provide pharmaceutical services at or from pharmacy premises, it must include with the notification a statement of—
 - (a) the reasons for the change; and
 - (b) P's right of appeal under paragraph (7).

- (7) P may, within 30 days of receiving notification under sub-paragraph (6), appeal in writing to the Secretary of State against any direction issued or any other action taken under subparagraph (3) which sets new days on which or times at which P is to provide pharmaceutical services.
- (8) The Secretary of State may, when determining an appeal, either confirm the action taken by NHS England or take any action that the NHS England could have taken under paragraph (3).
- (9) The Secretary of State shall notify P of the determination and shall in every case include with the notification a statement of the reasons for the determination.
- (10) If the days on which or times at which P is to provide pharmaceutical services at or from pharmacy premises have been changed in accordance with this paragraph, P must introduce the changes—
 - (a) if P has not appealed under sub-paragraph (7), not later than 8 weeks after the date on which P receives notification under sub-paragraph (6); or
 - (b) if P has appealed under sub-paragraph (7), not later than 8 weeks after the date on which P receives notification under sub-paragraph (9).
- (11) This paragraph does not apply where regulation 65(5) to (7) applies.

26. Determination of pharmacy premises core opening hours instigated by the NHS pharmacist

- (1) An NHS pharmacist (P) may apply to NHS England for it to change the days on which or times at which P is obliged to provide pharmaceutical services during core opening hours at or from P's pharmacy premises in a way that—
 - (a) reduces the total number of hours for which P is obliged to provide pharmaceutical services at or from those premises each week; or
 - (b) keeps that total number of hours the same.
- (1A) On or after 23rd June 2025, if P makes an application under paragraph (1)(b), P must state in the application whether P wishes the application to be determined on the basis of paragraph 24(1) or sub-paragraph (2ZB).
- (2) Except where sub-paragraph (2A) applies, where P makes an application under sub-paragraph (1)(a), as part of that application P must provide NHS England with such information as NHS England may reasonably request in respect of the matters that NHS England must seek to ensure pursuant to paragraph 24(1).
- (2ZA) Where P makes an application under sub-paragraph (1)(b), as part of that application P must provide NHS England with such information as NHS England may reasonably request in respect of the matters that NHS England must seek to ensure pursuant to sub-paragraph (2ZB) or paragraph or paragraph 24(1) (depending on the basis of the application).
- (2ZB) In the case of an application under sub-paragraph (1)(b) which is based on the matters that NHS England must seek to ensure pursuant to this sub-paragraph, where NHS England—
 - (a) issues a direction under sub-paragraph (4) for setting any days or times for opening hours; or

- (b) determines the application under sub-paragraph (4) without issuing a direction,
it must in doing so seek to ensure that the people who are accustomed to accessing pharmaceutical services at the pharmacy premises are likely to benefit from the changes because, overall, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours.
- (2A) In the case of an application for a direction under sub-paragraph (4) that has the effect of reducing, in the case of any premises in respect of which a 100 hours condition applies or has ever applied, or in respect of which a direction that replaced (at any distance in succession) a 100 hours condition applies, the total number of core opening hours to 72 or above, but without changing any or all of the following—
 - (a) the core opening hours on a Monday to Saturday at times between 5pm and 9pm;
 - (b) the core opening hours on a Sunday at times between 11am and 4pm, other than by way of the inclusion of, or a change to, a rest break which—
 - (i) is no longer than one hour, and
 - (ii) starts at least 3 hours after the start of the pharmacy's opening hours and ends at least 3 hours before the end of the pharmacy's opening hours; and
 - (c) the total number of core opening hours on a Sunday,
NHS England must grant that application, and paragraph 24(1) does not apply to such an application.
- (2B) In the case of a valid application for a direction under sub-paragraph (4) to which sub-paragraph (2A) applies, if—
 - (a) the date included in the application as the date on which P wishes to change P's core opening hours is five weeks or more after the day on which the application is received by NHS England; and
 - (b) NHS England has not determined the application by that date,
pending the determination of the application, P's core opening hours are the core opening hours that P requested in the application.
- (3) NHS England must determine the application within 60 days of receiving it (including any information required of P in accordance with sub-paragraph (2) or (2ZA)).
- (4) When it determines the application, NHS England must—
 - (a) issue a direction (which replaces any existing direction) which meets the requirements of sub-paragraphs (4A), (5) and (6) and which has the effect of either granting the application under this paragraph or granting it only in part;
 - (b) confirm any existing direction in respect of the times at which P must provide pharmaceutical services at or from the pharmacy premises, provided that the existing direction (whether issued under regulation 65, this Part, the 2012 Regulations, the 2005 Regulations or the 1992 Regulations) would meet the requirements of subparagraphs (5) and (6); or
 - (c) either—
 - (i) revoke, without replacing it, any existing direction in respect of the times at which P must provide pharmaceutical services at or from the pharmacy premises (whether issued under regulation 65, this Part, the 2012 Regulations, the 2005 Regulations or the 1992 Regulations), where this has the effect of granting the application under this paragraph or granting it only in part, or
 - (ii) in a case where there is no existing direction, issue no direction.

- (4A) NHS England must not issue a direction under sub-paragraph (4), or revoke without replacing it an existing direction under that sub-paragraph, if doing so would have the effect of reducing, in the case of any premises in respect of which a 100 hours condition applies or has ever applied, or in respect of which a direction that replaced (at any distance in succession) a 100 hours condition applies, any or all of the following—
- (a) the total number of core opening hours to below 72;
 - (b) the core opening hours on a Monday to Saturday at times between 5pm and 9pm;
 - (c) the core opening hours on a Sunday at times between 11am and 4pm, other than by way of the inclusion of, or a change to, a rest break which—
 - (i) is no longer than one hour, and
 - (ii) starts at least 3 hours after the start of the pharmacy's opening hours and ends at least 3 hours before the end of the pharmacy's opening hours; and
 - (d) the total number of core opening hours on a Sunday,
- and an application seeking such a change is not a valid application for the purposes of sub-paragraph (2B).
- (4B) On and after 25th May 2023, NHS England must not issue a direction under sub-paragraph (4), or revoke without replacing it an existing direction under that sub-paragraph, pursuant to an application made before 25th May 2023 for a direction pursuant to this paragraph as it had effect before 25th May 2023, if doing so would have the effect of reducing, in the case of any premises in respect of which a 100 hours condition applies, any or all of the following—
- (a) the core opening hours on a Monday to Saturday at times between 5pm and 9pm;
 - (b) the core opening hours on a Sunday at times between 11am and 4pm, other than by way of the inclusion of, or a change to, a rest break which—
 - (i) is no longer than one hour, and
 - (ii) starts at least 3 hours after the start of the pharmacy's opening hours and ends at least 3 hours before the end of the pharmacy's opening hours; and
 - (c) the total number of core opening hours on a Sunday.
- (5) Where NHS England issues a direction under sub-paragraph (4) in respect of pharmacy premises that are to be required to be open—
- (a) for more than 40 hours each week, it must set out in that direction—
 - (i) the total number of hours each week for which P must provide pharmaceutical services at or from the pharmacy premises, and
 - (ii) as regards any additional opening hours, the days on which and the times at which P is required to provide those services during those hours,but except in a case to which sub-paragraph (4A) applies, it must not set out in that direction days on which or times at which P is to provide pharmaceutical services during hours which are not additional opening hours; or
 - (b) for less than 40 hours each week, it shall set out in that direction the days on which and times at which pharmaceutical services are to be provided at the pharmacy premises.
- (6) NHS England must not issue a direction under sub-paragraph (4) that has the effect simply of requiring pharmacy premises to be open for 40 hours each week on set days and at set times (that is, the direction must have the effect of requiring pharmacy premises to be open for either more or less than 40 hours each week).
- (7) Where NHS England is considering taking action under sub-paragraph (4)(a) or (c)(i), it shall consult the Local Pharmaceutical Committee for the area in which the pharmacy premises are situated before determining the application.

- (8) NHS England must notify P of any direction issued or any other action taken under subparagraph (4), and where this has the effect of refusing an application under this paragraph or granting it in part, it must send P a statement setting out—
 - (a) the reasons for the refusal or, as the case may be, for granting the application only in part; and
 - (b) P's right of appeal under sub-paragraph (9).
- (9) P may, within 30 days of receiving a notification pursuant to sub-paragraph (8), appeal in writing to the Secretary of State against any action under sub-paragraph (4) which has the effect of refusing an application under this paragraph or granting it only in part.
- (10) The Secretary of State may, when determining an appeal, either confirm the action taken by NHS England or take any action that NHS England could have taken under subparagraph (4).
- (11) The Secretary of State must notify the pharmacist of the determination and must include with the notification a statement of the reasons for the determination.
- (12) If the days on which or times at which P is to provide pharmaceutical services at or from pharmacy premises have been changed in accordance with this paragraph, P must introduce the changes—
 - (a) if P has not appealed under sub-paragraph (9), not earlier than 30 days after the date on which P receives notification under sub-paragraph (4); or
 - (b) if P has appealed under sub-paragraph (9), not earlier than 30 days after the date on which P receives notification under sub-paragraph (11).
- (13) This paragraph does not apply where regulation 65(5) to (7) applies.

27. Temporary opening hours and closures during an emergency requiring the flexible provision of pharmaceutical services

- (1) Notwithstanding the provisions of this Part, during an emergency requiring the flexible provision of pharmaceutical services, NHS England may, on application from an NHS pharmacist ("P"), permit P a temporary change to the days on which or times at which P is obliged to provide pharmaceutical services at or from pharmacy premises, or permit temporary closure of those premises, if—
 - (a) P gives at least 24 hours notice of the change or closure; and
 - (b) the reasons given by P for the request are, in the opinion of NHS England, adequate reasons.
- (2) NHS England need not approve the request in advance of the change or closure, but if it does not do so and decides subsequently that P's reasons are not, in its opinion, adequate reasons, then the days on which or times at which P is obliged to provide pharmaceutical services at or from the premises are to revert to the overridden days or times, from the day after the date on which that decision is given to P.

27A.— Pharmacy opening hours: arrangements while a disease is or in anticipation of a disease being imminently pandemic etc.

- (1) Notwithstanding the foregoing provisions of this Part, the core or supplementary opening hours of an NHS pharmacist (P) may be changed by NHS England where, as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (a) pandemic; and
 - (b) a serious risk or potentially a serious risk to human health

NHS England with the agreement of the Secretary of State has made an announcement to the effect that, in order to assist in the management of the serious risk or potentially serious risk to human health, NHS England may, in the area to which the announcement relates and in the circumstances specified in the announcement, notify NHS pharmacists of changes to core and supplementary opening hours for the period specified in the announcement.

- (2) Where paragraph (1) applies, where NHS England notifies P of changes to P's core or supplementary hours at P's pharmacy premises, those are P's core and supplementary opening hours for the period that NHS England specifies in the notification (unless NHS England notifies P of further changes to P's opening hours).

27B Flexible provision of relevant immunisation services during a pandemic etc.

- (1) Notwithstanding the forgoing provisions of this Part, in order to assist in the management of a serious risk or potentially serious risk to human health which arises as a consequence of a disease being, or in anticipation of a disease being imminently, pandemic, an NHS pharmacist (P) may, with the agreement of [F3NHS England], limit for a specified period (within P's core and supplementary opening hours) the pharmaceutical services provided at or from P's pharmacy premises to relevant immunisation services.
- (2) If NHS England has made an announcement to the effect that there are particular arrangements under this paragraph that it is prepared to agree, and P limits P's provision of pharmaceutical services to relevant immunisation services in a manner that is consistent with that announcement, it is to be assumed (in the absence of a contrary notification from NHS England to P) that P has the agreement of NHS England to those arrangements.
- (3) In this paragraph, "relevant immunisation services" means directed services that provide for the administration of a medicinal product for vaccination or immunisation against coronavirus or influenza virus in accordance with—
 - (a) a patient group direction that meets the conditions of regulation 233 of the Human Medicines Regulations 2012 (exemption for supply etc under a PGD by a person conducting a retail pharmacy business); or
 - (b) a protocol that meets the conditions of regulation 247A of the Human Medicines Regulations 2012 (protocols relating to coronavirus and influenza vaccinations and immunisations),and for these purposes, "coronavirus" has the meaning given in section 1(1) of the Coronavirus Act 2020.

Appendix 2

Table showing allowed appeals as at 14 September 2026.

Case reference	Determination date	Provision
26102	1 February 2024	24(1)
26129	22 March 2024	24(1)
26148	19 April 2024	24(1)
26159	20 May 2024	24(1)
26187	9 July 2024	24(1)
26353	15 January 2025	24(1)
26369	15 January 2025	24(1)
26410	13 March 2025	24(1)
26532	7 May 2025	24(1)
26742	31 December 2025	24(1)
26748	5 February 2026	26(2ZB)

Appeals considered under paragraph 24(1)

26102 (1 February 2024)

The Applicant applied to open between 11pm and 12pm (midnight), Monday to Friday rather than being closed and close on Sunday between 11am and 4pm when it would otherwise be open. The following is an extract of the decision:

“2.50 I note that Fishlocks and Asda pharmacies are located further afield at 4.1 miles (9 minute drive) and 7.1 miles (15 minute drive), and are said to be open on Sundays from 8.30am to 9pm and 10.30am to 4.30pm, respectively. The Commissioner has confirmed that these are core opening hours. During the survey period, those patients who attended the Applicant’s pharmacy either walked or drove, and thus would drive to Fishlocks and Asda pharmacies.

2.51 In terms of the services accessed, the Applicant states that “*almost all those patients [from the survey] used the pharmacy to purchase an OTC medicine, with only 5 out of the 15 patients presenting a prescription, and only two of those being acute prescriptions. No patients used the Pharmacy to access any other pharmaceutical services.*”

2.52 The Commissioner in its decision letter referred to there being “*no reference to any impact on COVID medicines supply and palliative care services, currently supported and provided by the premises*”.

2.53 I am mindful that the provision of pharmaceutical services is greater than the dispensing of prescriptions and that maintaining a level of service provision includes all services that the pharmacy may offer, including additional enhanced and advanced services that may be commissioned.

2.54 The Commissioner contends that “*the expectation of services being available at other premises in the area should not be relied upon.*” However from the survey provided, there were no patients accessing any advanced or enhanced services on a Sunday. I note that dispensing (and OTC services) form the everyday essential services as provided by a pharmacy.

2.55 I am therefore satisfied that patients would be able to access the same services from the alternative providers if the Applicant's proposal to change its core hours were to be approved.

2.56 Based on the information provided, I am therefore satisfied that the existing level of service provision would be maintained by virtue of the existence of other local pharmacies."

26129 (22 March 2024)

The Applicant applied to open 9am to 12pm and 1pm to 5.30pm Monday to Friday, instead of 9am to 12.30pm and 2pm to 5.30pm as usual; and open 9am to 11.30am on Saturday, instead of 9am to 11.30am and 3pm to 5.30pm as usual. The following is an extract of the decision:

"2.41 The Applicant states that Boots Pharmacy and Morrisons Pharmacy at the Teesside Retail Park, approximately 2.7 miles away, are open on Saturdays until 5pm. The Applicant comments that this is a major retail area which patients will be accustomed to accessing for shops and leisure facilities. The Applicant claims it has a large free car park and is a 9 minute drive from the Applicant's pharmacy. Further the Applicant comments that the retail park can be accessed by the number 14 and 38 bus services taking 31 minutes, or on foot it is 1.2 miles away taking 25 minutes, and the terrain is mostly flat.

2.42 The Applicant also refers to three pharmacies (Boots, Your Family and Lloyds) on Linthorpe Road which are open on Saturday afternoons. The Applicant states that the Linthorpe Road area is approximately one mile away or a 20 minute walk. The Applicant comments that the area is easily accessible by bus with bus routes 12, 17 and 17A passing its pharmacy and the pharmacies on Linthorpe Road with a journey time of a few minutes and services running approximately every 10 minutes. The Applicant further states that there is free on-street car parking in the area. I note that the Commissioner did not consider the Your Family Pharmacy and Lloyds Pharmacy (which is undergoing a change of ownership) as they are outside a one mile radius from the Applicant's pharmacy.

2.43 I note that the information provided by the Applicant regarding physical access to other pharmacies has not been disputed.

2.44 I am satisfied that physical access to nearby pharmacies is satisfactory by both private and public transport. I consider that it is unlikely that patients will walk in order to access alternative pharmacies due to the distance involved and note that there is no suggestion that a significant proportion of patients walk in order to access the Applicant's pharmacy in any case.

2.45 The Commissioner has provided information indicating that Boots Pharmacy at the Retail Park has core opening hours between 3pm and 5pm, whilst Morrisons has no core opening hours after 2pm. Further, the information indicates that Boots Pharmacy on Linthorpe Road has core opening hours between 2.30pm and 4.45pm on Saturday afternoons, with supplementary hours between 4.45pm and 5.30pm. Although the Applicant has stated that Your Family and Lloyds pharmacies are open on Saturday afternoons, it is not clear whether these are core or supplementary hours. I note that the period between 12pm and 12.30pm on weekdays would be covered by the core opening hours of nearby pharmacies, should the application be approved.

2.46 The Regulations indicate that I may take supplementary opening hours into consideration. However I am mindful that supplementary hours may be altered by the pharmacy by giving notice to the Commissioner in accordance with paragraph 23(6)(a) of Schedule 4 without the need to make an application to the Commissioner. On this basis, I have not placed weight on the provision of pharmaceutical services on a Saturday afternoon at Morrisons Pharmacy at the Teesside Retail Park, or Boots Pharmacy on Linthorpe Road

between 4.45pm and 5.30pm. I note that patients would be able to access pharmaceutical services up to 5pm during core hours.

2.47 The Applicant comments that the pharmacies it has detailed offer the same services as it does, such as Hypertension Case Finding, Pharmacy Contraception Service, Flu Vaccinations and Minor Ailments. I note that according to information provided by the Commissioner there are other services provided by the Applicant but I have no information to suggest that there is a demand for those services at the times the Applicant is proposing to close.

2.48 Based on the information provided I am satisfied that the existing level of service provision would be maintained by virtue of the existence of other pharmacies in the area."

26159 (20 May 2024)

The Applicant applied to open earlier at 9am rather than at 9.30am Monday to Friday and to close earlier at 6pm, Monday to Friday, rather than stay open until 6.30pm. The following is an extract from the decision:

"7.28 The Applicant states that *"based on our many years' experience, it has been unnecessary, unrealistic and unviable to trade between 6pm and 6:30pm, the need for pharmaceutical services is significantly greater between 9am and 9:30am."* In support of this, the Applicant provided with their original application an activity tracker for the weeks commencing 17 April 2023 to 8 May 2023 for the period 6pm to 6:30pm. This showed that activity had been limited to over the counter sales during this period. With their appeal, the Applicant submitted a revised activity tracker, which again covered a four week period between 6pm and 6:30pm for the weeks commencing 8 January 2024 to 29 January 2024. This activity tracker again showed no use of pharmaceutical services and that on one week, 22 January 2024, there was no over the counter activity at all after 6pm.

7.29 No information has been provided to support the assertion from the Applicant that *"the need for pharmaceutical services is significantly greater between 9am and 9:30am."* Whilst I note the comment from the Applicant that they have been providing services between 9am and 9:30am and have *"significant local knowledge of the level of need during this period of the day"* I must consider the consequences of closing earlier on an evening

7.30 I further note the comment from the Applicant that as the Regulations state *"maintain as necessary the existing level of service provision ... it has demonstrated that the existing level of service provision is not necessary and is not used by the people in the area or the likely users of the pharmacy."* I am mindful that the period 9am to 9:30am is currently part of the supplementary hours of the pharmacy and whilst the Applicant has said that for most of the time they have owned the pharmacy they have opened during this period, there is still nothing provided to demonstrate that changing the core hours will maintain as necessary the existing level of service provision.

7.31 I note the Applicant's comments regarding the number of CPCS/Pharmacy First referrals it had between 6 September 2023 and 21 March 2024, none of which were between 6pm and 6.30pm. I have considered the data collected by the Applicant in both April/May 2023 and January 2024. I note that during the data collection period there were no pharmaceutical services provided during the hours that the Applicant is proposing to close.

7.32 I consider, in relation to paragraph 24(1)(a) that I have been provided with sufficient information to demonstrate that it is not necessary to maintain the existing level of service provision as no one is accessing pharmaceutical services at the times that the Applicant is wishing to close.

7.33 As I have determined that maintaining the existing level of service provision is unnecessary, I next consider if, taking into account the Applicant's amended hours, the days and times at which pharmacy premises are open for the provision of pharmaceutical services in the area are such that a sustainable level of adequate service provision is maintained for the people in that area or other likely users of the pharmacy premises.

7.34 The Applicant is not reducing its hours and is wanting to close when no-one accesses pharmaceutical services. There is no further reduction in service provision. There is also evidence provided of other pharmacies located in the area that provide services during the hours the Applicant wishes to close. I am therefore satisfied that taking into account the amended hours that adequate service provision is maintained. I consider it reasonable to presume that the level of service provision taking into account the amended hours are sustainable. No evidence has been provided to me that rebuts this presumption. I am therefore satisfied that, taking into account the Applicant's amended hours, the days and times at which pharmacy premises are open are such that a sustainable level of adequate service provision is maintained for the people in that area or other likely users of the pharmacy premises."

26353 (15 January 2025)

The Applicant applied to open until 1pm instead of closing at 12.30pm Monday to Friday and close on Saturday between 9am and 11.30am. The following is an extract of the decision:

"7.25 The Applicant's representative has also provided information to show that using the most direct route, it would take 21 minutes to walk from the pharmacy to the area of the existing pharmacies which are located approximately 1 mile away. It further states that *"There are no hills that would constitute a barrier to movement and roads are easy to cross, with light controlled crossings on busier roads, and dropped kerbs with tactile pavements to cross quieter roads where necessary. There is lighting provided throughout the area and pavements are wide and in good condition"*. I do not consider that for those who are willing and able there are any barriers to accessing the alternative pharmacies on foot. However, for those who are less able or unwilling, I will consider the information provided for access by other means".

7.26 I note from the information provided by the Applicant's representative that the area is predominantly served by bus route 31. This bus route passes the Applicant's pharmacy approximately every hour on a Saturday and continues into the town centre, where Boots, Asda Pharmacy and Ponda's Chemist are located, with a bus stop within 200m. I note the bus takes the reverse journey on its return. From the route map provided, I note this journey would take 9 minutes. Based on the information provided, I consider that for those who currently access the Applicant's pharmacy by bus would be able to access Boots, Asda Pharmacy and Ponda's Chemist.

7.27 In terms of car ownership, the Applicant's representative has provided information to show that 76.3% of Cheshire West and Chester and 80.5% of Winsford Over & Verdin own at least one car or van. Keeping in mind that those who accessed the Applicant's pharmacy over the period when the survey was open did so by car, the most direct route to the alternative pharmacies is 1.1 miles, with a journey time of 5 minutes. There is free parking and disabled parking bays at Asda Pharmacy and for Boots and Ponda's Chemist, the Applicant's representative states that there is free parking at council owned car parks and are within 200m. This has not been disputed by the Commissioner. Therefore, I consider that there are no barriers in accessing the alternative pharmacies by car.

7.28 The Commissioner considered that to grant the application would leave the South and North West of Winsford without pharmacy provision on a Saturday morning although I do not

know the volume of patients affected. I have considered the Applicant's response including how patients are able to access other provision from the town centre and am satisfied that those living slightly further away would not be inhibited.

7.29 In the decision report, the Commissioner stated *"NHS UK lists 4 pharmacies within 1 mile of FP677. Of these pharmacies 3 have core opening hours on a Saturday."* Even though it has not confirmed which pharmacies it is referring to, I note from the map provided by the Applicant's representative that, including the Applicant's pharmacy, there are five pharmacies in Winsford with one being Well Pharmacy which the Applicant stated in its application is closed on a Saturday. The Applicant's representative states that the following pharmacies have core opening hours on Saturdays; Asda Pharmacy is open from 9am to 12.30pm, 1pm to 4.30pm and 5pm to 9pm on Saturdays, Ponda's Chemist is open from 9am to 11.30am and Boots has opening hours from 9am to 5.30pm. These hours are not disputed by the Commissioner.

7.30 In terms of the services accessed, the Applicant's representative states that *"Our client's survey showed that patients who attended the pharmacy during the 4 week survey period accessed essential pharmaceutical services only i.e. they did not seek any advanced or enhanced services. As all pharmacies are required to essential [sic] services, it is clear that the pharmacies in Winsford town centre provide those services."*

7.31 Despite the survey findings, the Applicant's representative has provided information on the advanced and enhanced services it provides. I note the Applicant provides the New Medicines Service (NMS) and Pharmacy First service which is confirmed by the Commissioner in its decision report. Boots, Asda Pharmacy and Ponda's Chemist all provide the NMS and Ponda's Chemist provides the Pharmacy First service. I note that the Applicant does not provided any enhanced services.

7.32 I am therefore satisfied that patients would be able to access the same services from the alternative providers if the Applicant's proposal to change its core hours were to be approved.

7.33 I note the comments from the Commissioner on deprivation and note the information provided in response by the Applicant's representative. Based on my findings above in relation to accessing the alternative pharmacies by on foot and public transport, I am not persuaded that deprivation should be a reason to refuse the application.

7.34 Based on the information provided, I am therefore satisfied that the existing level of service provision would be maintained by virtue of the existence of other local pharmacies."

26532 (7 May 2025)

The Applicant applied to open 30 minutes earlier at 3.30pm instead of 4pm, Monday to Friday; and close on Saturday instead of opening 9.30am to noon. The following is an extract of the decision:

"7.21 Not everyone will start their journey from the existing site but according to the Applicant, which is not disputed, Jardines Pharmacy on Watling Street is located around 850m from its pharmacy. The Applicant has described the route on foot which takes 11-12 minutes and is well-lit with dropped kerbs, pedestrian islands and a light-controlled pedestrian crossing where necessary.

7.22 In terms of car ownership, the Applicant states that this is significantly higher than the national average. The Applicant further comments in its appeal that the journey by car takes

no more than 3 minutes with car parking available within 50m of the alternative pharmacy on both sides of the roads.

7.23 Although the survey showed that no patient accessed the pharmacy via public transport, the Applicant has provided information regarding bus routes in the area. I note from the undisputed information provided, there are 2 buses every hour on Saturdays, which travel from the Applicant's pharmacy to the alternative pharmacy, where there is a bus stop within 20m / 25m of the alternative pharmacy site.

7.24 When considering the opening hours of alternative pharmacies, Jardines Pharmacy at Watling Street has core opening hours of 10am to 12pm. This would mean there is a 30 minute gap between 9.30am and 10am on a Saturday but I do not consider this to be significant and would be considered by patients when they seek to access services.

7.25 In terms of services provided, I note the Applicant's undisputed comment that *"Jardines at 108 Watling Street provides all the advanced services that are provided at the Brook Health Centre branch, including LFD distribution, the only service requested at the pharmacy during the 4-week survey period."*

7.26 I am therefore satisfied that patients would be able to access the same services from the alternative providers if the Applicant's proposal to change its core hours were to be approved.

7.27 Based on the information provided, I am satisfied that the existing level of service provision would be maintained by virtue of the existence of other local pharmacies."

26742 (31 December 2025)

The Applicant applied to close at 6pm instead of 6.30pm Monday to Friday and on Saturday from 9am to 11am and 2.30pm to 5.30pm. The following is an extract of the decision:

"7.20 From the information provided, it is apparent and undisputed that no people are using the pharmacy Monday to Friday between the times the Applicant is proposing to close, therefore I do not consider it necessary to maintain the existing level of service provision between these times. However, it is clear that there are some people using the pharmacy on a Saturday at the times the Applicant wishes to close, therefore I consider it is necessary to maintain the existing level of service provision on a Saturday".

"7.30 I note that Boots Pharmacy is located 0.1 miles from the Applicant's pharmacy and would take 3 minutes to walk. Due to the short distance involved, I consider it reasonable to presume that patients who currently access the Applicant's pharmacy on foot, will also be able to access this pharmacy on foot. I note that Asda Pharmacy is located 3.4 miles away from the Applicant's pharmacy, therefore, due to the distance involved, I do not consider this to be a suitable alternative for patients who currently walk to the Applicant's pharmacy.

7.31 Turning to access by public transport, in relation to Boots Pharmacy, the Applicant states that *"Both pharmacies are accessed via the same bus stop"*. Whilst the Applicant has not provided information to demonstrate where this bus stop is located, I note that if it is located nearer to the Applicant's pharmacy as opposed to Boots Pharmacy, at most, it would be an additional 3 minutes walk. Noting my conclusion at 7.30 and that the bus service is the same, I consider that those who currently access the Applicant's pharmacy by bus would also be able to access Boots Pharmacy.

7.32 In relation to Asda Pharmacy, the Applicant states *"public transport is also very good in Royal Wootton Bassett, with buses operating every 10-15 minutes from the High Street (c.*

5 minutes away from Cohens)". However, I note that the Applicant has provided no information to demonstrate where the High Street is located in relation to the Applicant's pharmacy nor has it provided information to outline the relevant bus routes or timetables. Without having this information, I do not consider that Asda Pharmacy is a suitable alternative for those who currently access the Applicant's pharmacy by bus.

7.33 The Applicant has provided information regarding car ownership for the *"Wiltshire 006 Mid-layer SOA, which covers the majority of Wootton Bassett"*. It states that *"84.4% have at least one car per household, much higher than the national average of 76.5%. Thus, we can see that car ownership is high in the area and many are likely to be able to make this journey"*. In terms of access by car, for Boots Pharmacy, the Applicant states that *"the pharmacy is only a 2-minute drive away with parking available directly outside the pharmacy...Thus, patient access by...car is very good"*. Noting the short driving time, I consider that patients who currently access the Applicant's pharmacy by car, will also be able to access this pharmacy. Turning to Asda Pharmacy, the Applicant states that *"Asda Pharmacy is a 14-minute drive away"*. I consider it likely that this pharmacy is located within a supermarket setting and therefore sufficient parking facilities will be available. However, I note that the Applicant has provided no information in relation to the routes required to be undertaken nor parking facilities available.

7.34 To conclude my findings, I consider that Boots Pharmacy is a suitable alternative for those who currently access the Applicant's pharmacy whether by foot, car or public transport. However, due to the limited information in relation to Asda Pharmacy, I do not consider this to be a suitable alternative.

7.35 I note the Applicant has confirmed that it offers *"Pharmacy First, Pharmacy Contraception Service, Hypertension Case-Finding Service, New Medicine Service (NMS), Flu Vaccination Service, Lateral Flow Device Service (LFD) and the Smoking Cessation Service"* which *"are fully covered by the Boots Pharmacy during core opening hours on Saturday"* and has not been disputed by the Commissioner.

7.36 Based on the information provided, I am therefore satisfied that, on a Saturday, the existing level of service provision would be maintained by Boots Pharmacy."

Appeals considered under paragraph 26(2ZB)

26748 (5 February 2026)

The Applicant applied to change its current weekday hours from 9am to 1.30 and 2.15pm to 6.15pm to 8.30am to 1pm and 2pm to 5.30pm. The following is an extract of the decision:

"6.20 Regarding the proposed adjustment of core hours to begin at 08:30 rather than 09:00 and at 14:00 instead of 14:15, the Applicant notes that queues often form outside prior to the current opening times. Of the patient responses provided for this appeal, 13 did not consider the earlier morning start beneficial and 20 did not consider the shorter lunch hours helpful. Whilst the survey does not provide further information why this might be the case, in my view it is reasonable to conclude that this could be because patients may not access the pharmacy at these times and so, there is no benefit or impact. As for closing at 17:30 instead of 18:15, I acknowledge the Applicant's rationale, particularly in relation to clinic end times at various surgeries. Conversely, survey data show that 6 out of 50 respondents (12%) during the application phase and 10 out of 99 respondents (10%) at appeal were uncertain whether a 17:30 closing time would present an issue. However, I am of the view that this does not suggest that patients would no longer use the pharmacy but simply that they could not form a view of the impact at the time they answered the question.

6.21 Having reviewed the surveys, I reach similar conclusions to those of the Commissioner. There is an absence of certain information making it difficult to assess the results. Specifically, the surveys do not record any respondent details, nor provide information by which the accuracy or relevance of the responses can be assessed. I consider there is the omission of any indication as to whether respondents were habitual users of the pharmacy. The statutory test in paragraph 26(2ZB) concerns those who are accustomed to using the pharmacy. If respondents were occasional or one-off users, their views may not assist in determining the benefit to this cohort.

6.22 I further note that the surveys do not address whether those who stated that the proposed additional hours would benefit them would, in fact, attend during those hours. Paragraph 26(2ZB) concerns the likelihood of actual attendance during the revised period, not a generalised preference. The way the questions were structured does not enable this distinction to be drawn.

6.23 I also note that the surveys do not record the time of day at which responses were provided. Although the Applicant indicates that patients were asked throughout the relevant period, the absence of time-stamped responses means it is not possible to determine whether the sample reflects the full range of users. If, for example, responses were predominantly gathered earlier in the day, one would not expect respondents to raise concerns about earlier closing times.

6.24 I consider that the missing information concerning respondent characteristics, attendance patterns, and the timing of responses limits to some degree the evidential value of the surveys. The uncertainties created by these omissions mean that only limited weight can properly be given to this material in determining whether the statutory test is met.

6.25 I consider that evidence of demand would only form one part of the overall picture required to be established under paragraph 26(2ZB). I am mindful of the use of the phrase "*people who are accustomed*" in the Regulations. I consider such language to be indicative of the fact that if there is demand, no matter how small, and if those individuals are likely to cease to use the pharmacy as a result of the changes, then this would be strongly indicative that the requirements of paragraph 26(2ZB) would not be met.

6.26 Significantly, I note that the Commissioner has not provided any representation by which to challenge or oppose the further information provided by the Applicant. In the absence of any contradictory evidence, I consider that weight must still be attributed to the survey responses notwithstanding their limitations. While the surveys do not definitively establish attendance during the proposed hours, there remains a clear and consistent trend of respondents indicating perceived benefit.

6.27 Furthermore, no patient categorically indicated that closing at 5:30pm created an issue. With this in mind and based on the undisputed information regarding clinic closing times earlier in the day I consider that in this case the base assumption must be that this change is likely to benefit those who are accustomed to accessing the pharmacy. When this trend is taken together with the anecdotal evidence provided by the Contractor, I consider that, albeit imperfect, the overall balance of the available evidence generally supports the granting of the application."