

17 September 2025

8<sup>th</sup> Floor  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU

**FILE REF:** SHA/26658

**COMMISSIONER:** Lincolnshire ICB  
("the Commissioner")

Tel: 020 3928 2000  
Email: [nhsr.appeals@nhs.net](mailto:nhsr.appeals@nhs.net)

**PHARMACIST:** Tesco Pharmacy  
("the Appellant")

**PREMISES:** 65 Northgate,  
Sleaford,  
Lincolnshire  
NG34 7BB

**THE NATIONAL HEALTH SERVICE (PHARMACEUTICAL AND LOCAL  
PHARMACEUTICAL SERVICES) REGULATIONS 2013**

**SCHEDULE 4 [Terms of Service of NHS Pharmacists]  
PART 3 [Hours of Opening]**

**1 Outcome**

1.1 I confirm the action of the Commissioner to issue the direction.

A copy of this decision is being sent to:

Tesco Pharmacy  
Lincolnshire ICB

8<sup>th</sup> Floor  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU

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**THE NATIONAL HEALTH SERVICE (PHARMACEUTICAL AND LOCAL  
PHARMACEUTICAL SERVICES) REGULATIONS 2013 ["THE REGULATIONS"]**

**SCHEDULE 4 [Terms of Service of NHS Pharmacists]  
PART 3 [Hours of Opening]**

**DIRECTION OF ADDITIONAL CORE OPENING HOURS**

**1 Introduction**

- 1.1 Relying on Paragraph 25 of Schedule 4, the Commissioner has requested that the Appellant open from 10am to 12noon on 1 January 2026.
- 1.2 The Appellant seeks to appeal to NHS Resolution.

***Rights of appeal***

- 1.3 Where the Commissioner has directed a pharmacist to provide pharmaceutical services for its premises at set times and on set days in accordance with paragraph 25 of Schedule 4 of the Regulations, paragraph 25(7) provides a right of appeal to the Secretary of State for Health and Social Care ("the Secretary of State").
- 1.4 The Secretary of State has directed NHS Resolution to determine such appeals. As an authorised officer of NHS Resolution, I have considered the appeal and have determined it, in accordance with my delegated powers.

***Opening hours***

- 1.5 A pharmacy's opening hours may be categorised as:
- 1.5.1 'core' opening hours (days on and times at which the pharmacy is obliged to be open), which may incorporate a direction of the Commissioner requiring fewer or greater than 40 hours; or
  - 1.5.2 'supplementary' opening hours (other days on and times at which the pharmacy undertakes to provide pharmaceutical services, as notified to the Commissioner).

*Alteration of 'core' (including 'directed') opening hours*

- 1.6 In accordance with paragraph 1(7)(c) of Schedule 2 to the Regulations, the pharmacy must provide, as part of an application for entry in the pharmaceutical list, the proposed core opening hours in respect of the premises during which it will be obliged to provide pharmaceutical services under paragraph 23(1) of Schedule 4 to the Regulations. These may be subject to a direction under paragraph 23(1)(c), (d) or (e).

*Alteration of 'supplementary' opening hours*

- 1.7 Other days or times at which services are to be provided (as set out in the original application for entry in the pharmaceutical list pursuant to paragraph 23(3) of Schedule 4 as "supplementary hours") may be altered by giving notice to the Commissioner, in accordance with paragraph 23(6)(a) without the need to make an application.
- 1.8 Notices under paragraph 23(6)(a) are not subject to review by NHS Resolution.

*The Commissioner's Request*

- 1.9 The Commissioner wishes the Appellant to open from 10am to 12noon on 1 January 2026, a day on which it would otherwise be closed.

## 2 The Direction

In a letter to the Appellant dated 7 July 2025, the Commissioner stated:

- 2.1 "We have concluded our assessment as to whether to issue a direction pursuant to paragraph 25(1) of Schedule 4 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended and have issued the enclosed direction.
- 2.2 Your core opening hours on **Thursday 1st January 2026** are therefore: **10:00 – 12:00**
- 2.3 The reasons for directing the above pharmacy to open are:
- 2.4 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.

- 2.5 Please be advised that the level of remuneration for New Years Day – 1st January 2026, will be £350.00 per hour for a maximum of 2 hours. This should be claimed through Pharm Outcomes within 28 days of the directed day. If this is not claimed within 28 days, assurance will be sought, and you will have to a maximum of 45 days from the directed day to claim.
- 2.6 Please ensure that you update the directory of service (DOS) and NHS UK using profile manager with the hours that you are being directed to open.
- 2.7 You have the right of appeal to the Secretary of State against our decision. Should you choose to appeal, then you should send in writing a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to: [nhsr.appeals@nhs.net](mailto:nhsr.appeals@nhs.net) or
- 2.7.1 Primary Care Appeals Case Manager, NHS Resolution, 8th Floor 10 South Colonnade, Canary Wharf, London, E14 4PU.”

### 3 The Appeal

In an email to NHS Resolution dated 8 July 2025 the Appellant appealed against the Commissioner’s decision. The grounds of appeal are:

- 3.1 “I am writing to formally appeal the proposal for FC096– Tesco In-Store Pharmacy, 65 North gate, Sleaford, NG347BB to open on New Years day, 1st of January 2026 from 10:00 to 12:00. We believe this mandate places an unreasonable strain on our pharmacy operations and resources for several critical reasons:
- 3.2 **Misinterpretation of Communication:** Our understanding of the previous email communication was that pharmacies were specifically asked to respond *if* they had any intentions in opening on bank holidays. We believe it is inequitable to infer acceptance or unilaterally select our pharmacy based on this. Also Tesco Pharmacy has been open every day on all other bank holidays apart from Easter Sunday.
- 3.3 **Previous Opening and Local Alternatives:** Our pharmacy previously fulfilled a requirement by opening on Christmas day 25th December 2024. Furthermore, there are approximately five other pharmacies located within the vicinity and more in the surrounding areas.”

### 4 Representations

In a letter to NHS Resolution dated 13 August 2025 the Commissioner stated:

- 4.1 “Thank you for your letter dated 14 July 2025 notifying us that Tesco In-Store Pharmacy (FC096) has appealed against Lincolnshire Integrated Care Boards (ICBs) decision to direct their pharmacy (FC096) to open on New Years Day 1st January 2026.
- 4.2 We note that Tesco Pharmacy (FC096) are appealing this direction for the reasons listed below;

- 4.3 *Misinterpretation of Communication: Our understanding of the previous email communication was that pharmacies were specifically asked to respond if they had any intentions in opening on bank holidays. We believe it is inequitable to infer acceptance or unilaterally select our pharmacy based on this. Also Tesco Pharmacy has been open every day on all other bank holidays apart from Easter Sunday.*
- 4.4 *Previous Opening and Local Alternatives: Our pharmacy previously fulfilled a requirement by opening on Christmas Day 25th December 2024. Furthermore, there are approximately five other pharmacies located within the vicinity and more in the surrounding areas.*
- 4.5 The East Midlands Primary Care Team on behalf of NHS Lincolnshire ICB would like to make the following representations:
- 4.6 NHS Lincolnshire ICB under Schedule 4, Part 3, paragraph 25(2)(b) of the NHS (Pharmaceutical Services and Local Pharmaceutical Services) Regulations 2013 (As amended) has the ability to direct a pharmacy to open where a need is determined.
- 4.7 The regulations state;
- “(6) The NHSCB 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 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).”*
- 4.8 As you will be aware, pharmacies are not required by their terms of service to open on Christmas Day, Good Friday, Easter Sunday or on a bank holiday, although they may choose to do so.
- 4.9 NHS Lincolnshire ICB have not been notified of any pharmacies that will be open in the Sleaford area on New Years Day 1st January 2026 and no pharmacies have volunteered to open on this day. Under section 126 of the NHS Act 2006 (Arrangemetrn [sic] for pharmaceutical services), NHS England (now delegated to the ICBS) must make arrangements for the provision, to person’s who are in England of;
- “(a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown,*
- (b) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a dental practitioner in pursuance of—*
- (i) his functions in the health service, the Scottish health service or the Northern Ireland health service (other than functions exercised in pursuance of the provision of services mentioned in paragraph (c)), or*

(ii) *his functions in the armed forces of the Crown,*

(c) *listed drugs and medicines and listed appliances which are ordered for those persons by a dental practitioner in pursuance of the provision of primary dental services or equivalent services in the Scottish health service or the Northern Ireland health service,*

(d) *such drugs and medicines and such listed appliances as may be determined by the Secretary of State for the purposes of this paragraph and which are ordered for those persons by a prescribed description of person in accordance with such conditions, if any, as may be prescribed, in pursuance of functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown, and*

(e) *such other services as may be prescribed.”*

4.10 In light of the fact no pharmacies will be open on New Year's Day 1st January 2026 NHS Lincolnshire ICB is of the opinion that the needs of people in its area or other likely users of pharmacy premises for pharmaceutical services will not be met on this day.

4.11 NHS Lincolnshire ICB has considered what arrangements need to be put in place on New Year's Day 1st January 2026 in order to discharge this duty. We are of the opinion that whilst demand for the full range of pharmaceutical services may be lower on this day compared to a Thursday that is not a public holiday, there will still be a need for pharmaceutical services by people who live within Sleaford, North Hykeham, Bramwell, Metherringham, Navenby, Ruskington and Waddington – North Kesteven locality and surrounding areas or are visiting during the festive period. Whilst GP practices will be closed on New Year's Day, other providers of NHS services will be open such as the GP out of hours service and A&E departments.

4.12 We believe that, as a minimum, the services for which there will be a need on Easter Monday [sic] are as follows.

4.12.1 *The dispensing service for prescriptions issued by a NHS service provider that is open on that day or for prescriptions that have been issued on a previous day but which a person has not been able to have dispensed due, for example, being at work and pharmacies reducing their supplementary opening hours on Christmas Eve.*

4.12.2 *The Pharmacy First service for the urgent supply of repeat medicines, referrals from NHS11 for low acuity, minor illnesses or under one of the clinical pathways.*

4.12.3 *The NHS pharmacy contraception advanced service, particularly as it is being expanded to include the provision of emergency contraception from October 2025.*

4.13 Of course, some people may wish to access other essential and advanced services. As stated above, we are not aware of any pharmacies that will be open on New Years Day 1st January 2026 and therefore at present the ICB is unable to discharge the duty as set out in section 126 of the NHS Act 2006.

- 4.14 NHS Lincolnshire ICB emailed out to all contractors on 21 March 2025 to request that pharmacy contractors complete a Microsoft Form to inform us of their intentions over the bank holiday periods during 2025-26 and return the completed form to [englang.eastmidsparmacy@nhs.net](mailto:englang.eastmidsparmacy@nhs.net) by 18 April 2025. This form enables NHS Lincolnshire ICB to identify whether any pharmacies intend to open voluntarily. NHS Lincolnshire ICB did not receive any volunteers within the Sleaford, North Hykeham, Bramwell, Metherringham, Navenby, Ruskington and Waddington – North Kesteven locality. As set out above, NHS England (now delegated to the ICBS) must make arrangements for the provision of pharmaceutical care, and in the absence of this provision, look to issue a direction.
- 4.15 Following an initial assessment by the East Midlands Primary Care Team, where the Pharmaceutical Needs Assessment (PNA) was utilised to establish the need for pharmaceutical provision in Lincolnshire, Tesco pharmacy (FC096) has been identified as meeting the needs of people in the Sleaford area for the following reasons:
- 4.15.1 *There is a need to provide pharmaceutical services in Sleaford where there is currently no provision on New Year's Day 1st January 2026.*
- 4.15.2 *Your 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.*
- 4.15.3 *The pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within Lincolnshire ICB which has been identified as deprived, based on its Index of Multiple Deprivation (IMD) decile. This proposal ensures that there is coverage of pharmaceutical services in an area of deprivation, which is a priority for Lincolnshire ICB to improve access to healthcare for vulnerable groups and reduce health inequalities. Areas of high deprivation are also likely to have more patients with long-term conditions requiring management, and this proposed direction would ensure provision of dispensing for these patients.*
- 4.15.4 *Sufficient availability of public transport and car parking accessibility.*
- 4.15.5 *Consultations are held regularly with the Local Pharmaceutical Committee for pharmaceutical provision of upcoming public or bank holidays. On this occasion the proposed pharmacies for direction on New Year's Day 1 January 2026 were sent via email to LPCs on 16 May 2025, where no rationale was provided to oppose the direction of Tesco Pharmacy (FC096) on New Year's Day 1st January 2026.*
- 4.16 NHS Lincolnshire ICB also reviewed the claim forms submitted by contractors who previously opening 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 patient requesting advice from a pharmacist. Further to this, the minimum hours required for sufficient pharmaceutical services cover is between 10am – 4pm. This ensures that patients have access to these services on a day where public transport is not as easily accessible.

- 4.17 As a result of this assessment, it has been determined that direction is required to provide adequate pharmaceutical. Tesco In-Store Pharmacy (FC096) was directed to open for the hours of 10:00-12:00 as the pharmacy satisfies the above assessment criteria, The pharmacy will receive £350.00 per hour for up to a maximum of 2 hours for opening as directed.
- 4.18 In response to:
- 4.19 *(a) Misinterpretation of Communication: Our understanding of the previous email communication was that pharmacies were specifically asked to respond if they had any intentions in opening on bank holidays. We believe it is inequitable to infer acceptance or unilaterally select our pharmacy based on this. Also Tesco Pharmacy has been open every day on all other bank holidays apart from Easter Sunday.*
- 4.20 NHS Lincolnshire ICB emailed out to all contractors on 21 March 2025 to request that pharmacy contractors complete a Microsoft Form to inform us of their intentions over the bank holiday periods during 2025-26 and return the completed form to [englang.eastmidspharmacy@nhs.net](mailto:englang.eastmidspharmacy@nhs.net) [sic] by 18 April 2025. This form enables NHS Lincolnshire ICB to identify whether any pharmacies intend to open voluntarily. NHS Lincolnshire ICB did not receive any volunteers within the Sleaford, North Hykeham, Bramwell, Metherringham, Navenby, Ruskington and Waddington – North Kesteven locality. As set out above, NHS England (now delegated to the ICBs) must make arrangements for the provision of pharmaceutical care, and in the absence of this provision, look to issue a direction.
- 4.21 Tesco In-Store Pharmacy (FC096) pharmacy was not ‘unilaterally’ selected to open. A diligent assessment was undertaken, as set out above, with the pharmacy being identified as meeting this assessment criteria and subsequently being issued with a direction. An explanation as to why the pharmacy was issued with a direction was provided to them in their direction letter, sent to the pharmacy on (insert date) [sic].
- 4.22 Whilst NHS Lincolnshire ICB appreciates that the pharmacy has opened voluntarily on some previous bank and public holidays, this does not negate the need for this direction as NHS Lincolnshire ICB must ensure adequate pharmaceutical services are provided on New Years Day 2026. As no pharmacies had opened voluntarily to meet local need, a direction was issued to Tesco In-Store Pharmacy (FC096) 10:00-12:00 following our assessment.
- 4.23 In response to:

- 4.24 *(b) Previous Opening and Local Alternatives: Our pharmacy previously fulfilled a requirement by opening on Christmas Day 25th December 2024. Furthermore, there are approximately five other pharmacies located within the vicinity and more in the surrounding areas.*
- 4.25 Tesco In-Store Pharmacy (FC096) last received a formal direction from NHS Lincolnshire ICB to open on New Years Day 2024, which is two years from this subsequent date of direction. Further to this the pharmacy received a direction for Christmas Day 2024. Whilst NHS Lincolnshire ICB does try to rotate pharmacies to ensure equitability, this is a secondary reason for a direction.
- 4.26 As previously stated, Tesco In-Store Pharmacy (FC096) was issued with a direction following NHS Lincolnshire ICBs diligent assessment process. Other pharmacies were considered for direction as part of this process but, following assessment, the geographical location of a pharmacy within an agreed locality, set out collaboratively with the Local Pharmaceutical Committee, and in the case of Sleaford, North Hykeham, Bramwell, Metherringham, Navenby, Ruskington and Waddington – North Kesteven locality the pharmacy was selected to ensure there is equitable access for patient who do not have access to a car on a day where public transport is not likely to be operating. A map has been included to reflect the geographical location of the pharmacy which also indicates in darker areas with a red border the highest levels of health deprivation within the locality.
- 4.27 It is also worth noting that NHS Lincolnshire ICB contacted Tesco In-Store Pharmacy (FC096) on sent [sic] on 05 June 2025 by email at (Insert Email Address the proposal to direct letter was sent to) [sic] to issue a letter advising that the pharmacy was being considered for a direction. This letter invited the pharmacy to submit representations to NHS Lincolnshire ICB within 30 days receipt of the proposal to direct letter. Any representations received are then taken by NHS Lincolnshire ICB to the East Midlands Pharmacy Services Regulatory Committee (PSRC) for review and to consider whether the proposed direction should proceed. A delivery receipt to the pharmacies nominated NHS.net account and notification that the email was successfully relayed to [YT] was received. Tesco In-Store Pharmacy (FC096) did not submit representation during this period, therefore, NHS Lincolnshire ICB moved to issuing a direction on 07 July 2025, as we had not been provided with any information to suggest this direction was not required.
- 4.28 NHS Lincolnshire ICB has chosen to give Tesco In-Store Pharmacy (FC096) 6 months' from the issue of the proposal to direct letter to notify the pharmacy of the potential requirement to open on this date and 5 months' notice when the final direction was issued, to ensure the contractor has sufficient time to prepare accordingly."

## 5 Observations

No observations were made by the Appellant in response to the representations from the Commissioner.

## 6 Assessment

6.1 I have considered paragraph 25 of Schedule 4 (Determination of pharmacy premises core opening hours instigated by NHS England), which reads as follows:

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 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 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 (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 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 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 sub-paragraph (3), and where it sets new days on which or times at which P is to provide pharmaceutical services at 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 sub-paragraph (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 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 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.*

6.2 I am mindful that paragraph 23(12) of Schedule 4 states:

*For the purposes of calculating the number of hours that a 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.*

6.3 I am of the view that the pharmacy would normally be closed on 1 January 2026, which is a bank holiday and that this would be in accordance with the Regulations.

6.4 I am conscious that paragraphs 25(1) and (2) require that before any direction is made, an assessment must be undertaken and that, before the assessment is concluded, the pharmacist providing services from the premises must be given notice of the proposed changes and given 30 days to make written representations about the proposed changes.

6.5 The Commissioner in its representations states that it “*contacted Tesco In-Store Pharmacy (FC096) ... on 05 June 2025 by email ... to issue a letter advising that the pharmacy was being considered for a direction. This letter invited the pharmacy to submit representations to NHS Lincolnshire ICB within 30 days receipt of the proposal to direct letter*” and further that the Appellant did not respond. Although I have not been provided with a copy of the ‘proposal to direct’ letter, I note that the Appellant has not sought to dispute that they did not receive this letter or that they did not reply to this letter. The Commissioner therefore proceeded to issuing a direction on 7 July 2025, as it “*had not been provided with any information to suggest this direction was not required.*” I note in its cover email of 7 July 2025, the Commissioner states “*Following the publication of the rota for 25/26 in conjunction with the ICB and LPC, and recent proposal to direct letter.*”

6.6 In its appeal, the Appellant contends that it’s “*understanding of the previous email communication was that pharmacies were specifically asked to respond if they had any intentions in opening on bank holidays. We believe it is inequitable to infer acceptance or unilaterally select our pharmacy based on this.*” However, I note the email referred to by the Appellant is that from the Commissioner dated 21 March 2025, whereby the Commissioner emailed all pharmacy contractors with a request to complete a form, which would enable the Commissioner to identify whether any pharmacies intend to open voluntarily.

6.7 I am of the view that the Commissioner has undertaken a consultation process as set out in the Regulations and that there is no dispute from the Appellant in this regard.

6.8 I am mindful that the Commissioner 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.

- 6.9 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.”*
- 6.10 In its representations, the Commissioner goes on to explain further the reasoning behind the direction and the assessment that was carried out.
- 6.11 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.”*
- 6.12 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.”*
- 6.13 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.
- 6.14 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.
- 6.15 I am of the view that, given the explanation of the Commissioner’s assessment in its representations on this appeal, I have been provided with sufficient information to substantiate the view as to why the Appellant’s pharmacy will be best placed in terms of access and geography to meet the envisaged demand for services.

- 6.16 I am satisfied with the Commissioner's assessment and I consider that the Commissioner has provided sufficient information to support the conclusion reached. I sympathise with the Appellant's position that they have opened on previous bank holidays but this is not something I am empowered to consider and the Appellant should address these concerns to the Commissioner.
- 6.17 On appeal, I may (in accordance with paragraph 25(8) of Schedule 4) either confirm the action of the Commissioner or take such other action as it could have taken.
- 6.18 On the basis of the information available to me, and the reasons given above, I am satisfied that the Commissioner has demonstrated that the needs of people in its area or other likely users of the pharmacy for pharmaceutical services will not be met on 1 January 2026 such that it is appropriate to issue a direction requiring the Appellant's pharmacy to open on the days and times indicated in the direction.

## **7 Determination**

- 7.1 I confirm the action of the Commissioner to issue the direction.

**Head of Appeals**  
**NHS Resolution**