

20 October 2025

8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU

FILE REF: **SHA/26664**

Tel: 020 3928 2000
Email: nhsr.appeals@nhs.net

COMMISSIONER: **Leicester, Leicestershire and Rutland
ICB
("the Commissioner")**

PHARMACIST: **PCT Healthcare Ltd t/a Peak Pharmacy
("the Appellant")**

PREMISES: **WESTCOTES HEALTH CENTRE,
FOSSE ROAD SOUTH,
LEICESTER,
LEICESTERSHIRE,
LE3 0LP**

**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 The appeal is granted and, pursuant to paragraph 25(3)(c)(ii), no direction is issued.

A copy of this decision is being sent to:

PCT Healthcare Ltd t/a Peak Pharmacy (FXC00)
East Midlands Primary Care Team on behalf of Leicester, Leicestershire and Rutland ICB

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**THE NATIONAL HEALTH SERVICE (PHARMACEUTICAL AND LOCAL
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**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 2pm to 4pm on Thursday 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 2pm to 4pm on New Year's Day, Thursday 1 January 2026, a day on which it would otherwise be closed.

2 The Direction

In a letter to the Appellant dated 23 June 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 1 January 2026** are therefore: **14:00 – 16:00**

- 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 Leicester [sic] area to meet the needs of people living in the area on **Thursday 1 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 Bank Holiday – 1 January 2026, will be £275.00 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 or Primary Care Appeals Case Manager, NHS Resolution, 8th Floor 10 South Colonnade, Canary Wharf, London, E14 4PU.
- 2.8 If you have any questions, please do not hesitate to contact me.”

3 The Appeal

In a letter to NHS Resolution dated 11 July 2025 the Appellant appealed against the Commissioner’s decision. The grounds of appeal are:

- 3.1 “Further to a direction of core opening hours received by email dated 23rd June 2025 for the above pharmacy to open on 1 January 2026 (New Years Day) at 14:00 until 16:00, PCT Healthcare Limited writes to appeal to the Primary Care Appeals Unit. (emails attached).
- 3.2 Firstly, we are aware of the need for adequate pharmaceutical services provision. However, we feel that this particular direction has not been based on adequate research and reasoning by Leicester, Leicestershire ICB. There is no detail within the letter of direction, as this is a generic letter, to indicate the reasons as to how or why this direction supports an assessment which concluded the pharmaceutical needs of the relevant persons will not be met on this day that we are required to open our pharmacy, FXC00 in Leicester rather than any other pharmacy.
- 3.3 Neither the proposal to direct nor the direction letter contains the outcome of minutes of a meeting between the ICB and Community Pharmacy Leicester and Leicestershire (previously LPC) regarding the Directions for this Bank Holiday.
- 3.4 Under Schedule 4 paragraph (25)(6)(a) of the NHS Pharmaceutical and LPS Regulations NHS England must include with the notification a statement of “the reasons for the change”. We note that the Regulations envisage the reasons

for the direction should be based on the results of an assessment, which followed a consultation, which should conclude with the needs of the local population and likely users of our pharmacy not being met on this day such that we are required to open from 14:00 to 16:00 on 1 January 2025.

- 3.5 In particular, both letters make no reference to any specific results linking our pharmacy to any lack of service provision on 1 January 2025. Furthermore, there is no actual details of the findings of a consultation or assessment, and therefore no reasons behind the direction which is contrary to paragraph 25(1) and 25(6) of Schedule 4.
- 3.6 In conclusion, our pharmacy has received this direction, however for the reasons discussed above we do not feel it has been made clear as to why our pharmacy, in particular, has been chosen to open at 14:00 to 16:00 on 1 January 2026, as opposed to another pharmacy in the locality.”

The Appellant included a copy of the letter from the Commissioner dated 16 May 2025 which stated:

- 3.7 **“Re: Proposal to Direct of opening hours on New Years Day, 1 January 2026 at Peak Pharmacy, Fosse Road, Leicester, LE3 0LP (FXC00).**
- 3.8 **Your current core opening hours are**
- 3.9 Monday, Tuesday, Wednesday, Thursday & Friday 09:00 - 13:00 and 14:00 - 18:00
- 3.10 Saturday & Sunday CLOSED
- 3.11 **The total opening hours (core & supplementary) of the above pharmacy premises are:**
- 3.12 Monday, Tuesday, Wednesday, Thursday & Friday 08:30 - 18:00
- 3.13 Saturday & Sunday CLOSED
- 3.14 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:
- 3.15 There is no pharmacy provision in the LE3 area on New Years Day, 1 January 2026, following requests for a pharmacy to volunteer.
- 3.16 We are carrying out an 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 requiring you to provide pharmaceutical services on the following date and time:
- 3.17 **New Years Day, 1 January 2026 14:00 – 16:00**
- 3.18 If you wish to make written representations about the proposed direction, they should be sent to england.eastmidpharmacy@nhs.net within 30 days of the date of this letter, i.e. by Sunday 15 June 2025.

3.19 If you have any questions, please do not hesitate to contact us.”

4 Representations

In a letter to NHS Resolution dated 5 August 2025 the Commissioner stated:

- 4.1 “Thank you for your letter dated 15th July 2025; the East Midlands Primary Care Team (EMPCT) on behalf of Leicester, Leicestershire and Rutland Integrated Care Board (LLR ICB) would like to make the following representations in response to the appeal submitted by PCT Healthcare Ltd.
- 4.2 Under Schedule 4, paragraph 25(1) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, the commissioner may issue a direction requiring a pharmacy to open on a specified date where it is satisfied, following an appropriate assessment, that pharmaceutical needs in the area would not otherwise be met.
- 4.3 Schedule 4, paragraph 25(6)(a) of the Regulations further provides that such a direction must be accompanied by a statement of the reasons for the change, based on the results of an assessment that follows consultation.
- 4.4 The appeal challenges a direction requiring PCT Healthcare Limited T/A Peak Pharmacy (FXC00), to open for two hours (14:00–16:00) on 1 January 2026 (New Year’s Day). The appellant contends that the direction lacks adequate reasoning and specific evidence to justify the selection of their pharmacy over others.
- 4.5 We respectfully submit that the direction issued is valid, proportionate, and supported by a detailed needs-based assessment carried out by EMPCT. That assessment forms part of a structured and transparent process that incorporates a combination of population need, geographic accessibility, local service coverage, deprivation data, and historic gaps in provision.
- 4.6 The analysis also highlights that although Leicester has a higher-than-average number of pharmacies per head (2.4 per 10,000 population, compared to the national average of 2.1), this distribution is uneven. The eastern area of Leicester - in which FXC00 is located - has been identified as an area with lower coverage. This has been reinforced by local intelligence and a review of past bank holiday provision patterns. Furthermore, the data confirmed that while some coverage exists during the morning and early evening, there is a consistent lack of open pharmacies in the mid-afternoon period, especially in the west-central area of Leicester.
- 4.7 The Indices of Multiple Deprivation (IMD) were used to understand health inequalities across LLR. The Fosse Road area (LE3) lies within a significantly deprived urban locality with high levels of health need and lower-than-average car ownership. The IMD rankings support the need for accessible healthcare services, particularly for vulnerable and less mobile populations. Locating a pharmacy in this area during a critical gap period was therefore a priority.
- 4.8 The placement of directed pharmacies was carefully considered in relation to existing Urgent Care Centres (UCCs) and NHS 111 services. There is a recognised clinical need for accessible pharmacy services to complement UCC

provision, especially when minor ailments, medication queries or emergency supplies can be managed via pharmacy rather than at overstretched acute settings. FXC00 is located near the Leicester Royal Infirmary UCC catchment and can help relieve pressure on urgent care by providing local access to pharmaceutical care.

- 4.9 LLR comprises a mix of urban, suburban and rural localities. Our mapping of pharmacy availability against urban/rural classification showed central urban areas such as Fosse Road to be key zones where populations may have more limited options if no pharmacies are directed to open. Conversely, more rural areas had fewer pharmacies, but a higher proportion of residents are mobile by car, allowing us to balance coverage across different geographies.
- 4.10 Nine pharmacy sites were identified across the local authority districts of Leicester City, Leicestershire, and Rutland. These were selected based on:
 - 4.10.1 Local need (per the PNA and IMD)
 - 4.10.2 Historic Bank Holiday provision data
 - 4.10.3 Public access and transport availability
 - 4.10.4 Avoiding duplication with pharmacies already planning to open voluntarily
- 4.11 The nine local authority districts are:
 - 4.11.1 Melton
 - 4.11.2 Rutland
 - 4.11.3 Harborough
 - 4.11.4 Oadby & Wigston
 - 4.11.5 Leicester
 - 4.11.6 Charnwood
 - 4.11.7 North West Leicestershire
 - 4.11.8 Hinckley & Bosworth
 - 4.11.9 Blaby
- 4.12 The selection of pharmacies to receive a direction was undertaken in partnership with the Community Pharmacy Leicestershire and Rutland (the LPC). Discussions took place to discuss the approach, and the proposed list of pharmacies was shared with the ICB and LPC in advance. The ICB formally approved the process, and the LPC was consulted with the final list of directions. No objections were raised to the process or principles at the time.

- 4.13 We have used the process to ensure that pharmacies are directed on a rotational basis, within in each local authority district and this is being used for Good Friday, Easter Sunday and Easter Monday 2026 (as well as the remainder of the 2026 bank holidays).
- 4.14 A geographic information system (GIS) mapping exercise was carried out to ensure that no resident in LLR would be more than 20 minutes away by car from a pharmacy open at some point on New Year's Day. The positioning of FXC00, along with the other directed pharmacies, ensures that this threshold is met even during peak demand times and despite reduced public transport.
- 4.15 We considered public transport options on New Year's Day, recognising limited-service availability. FXC00 is located on Fosse Road North, which is served by several bus routes running limited Bank Holiday timetables. Its central location and proximity to densely populated residential areas make it accessible by foot or public transport for a significant proportion of the population without access to a car.
- 4.16 I would like to take this opportunity to respond to any further representations provided by PCT Healthcare Limited T/A Peak Pharmacy (FXC00)."

5 Observations

In a letter to NHS Resolution dated 22 August 2025 the Appellant stated:

- 5.1 "Further to a direction of core opening hours for the above pharmacy to open on 1 January 2026 (New Years Day) at 14:00 until 16:00, PCT Healthcare Limited writes with observations on the representations received from East Midlands Primary Care Team (EMPCT).
- 5.2 Firstly, we are aware of the need for adequate pharmaceutical services provision. However, we feel that this particular direction has not been based on adequate research and reasoning by EMPCT. There is no detail within the letter of direction nor the representation, to indicate the reasons as to how or why this direction supports an assessment which concluded the pharmaceutical needs of the relevant persons will not be met on this day that we are required to open our pharmacy, FXC00 in Leicester rather than any other pharmacy.
- 5.3 PCT Healthcare Limited shall deal with each point raised by EMPCT in the letter dated 5 August 20025 which we believe still does not fully explain the reasoning behind this direction as the representation does not make reference to any specific results linking our pharmacy to any lack of service provision on 1 January 2026. Furthermore, there is no actual details of the findings of a consultation or assessment of need, and therefore no reasons behind the direction which is contrary to paragraph 25(1) and 25(6) of Schedule 4.
- 5.4 PCT Healthcare Limited shall consider each point within the representation in turn.
- 5.5 Considering the point beginning:

"The analysis also highlights..."

- 5.6 With regards to the section about pharmacies per head (2.4 per 10,000 population compared to the national average of 2.1):
- 5.7 This information is from the current Leicester City Council PNA ([Pharmaceutical Needs Assessment \(PNA\)](#)) There are 85 pharmacies in total within Leicester City.
- 5.8 There seems to be some confusion by EMPCT as to the location of our pharmacy FXC00, the paragraph at the bottom of page 1 states.
- “The eastern area of Leicester – in which FXC00 is located.”*
- 5.9 This is incorrect as FXC00 is located on Fosse Road, Leicester LE3 0LP which is located to the west of the city centre, PCT Healthcare Limited wish NHS Resolution to respectfully consider if EMPCT have directed for the desired location.
- 5.10 FXC00 is located where the red indicator is on the below map [provided]
- 5.11 The next section of the representation, begins:
- “ The Indices of Multiple Deprivation (IMD) ...”*
- 5.12 From the PNA page 25, Leicester City Council PNA ([Pharmaceutical Needs Assessment \(PNA\)](#)). This map depicts the deprivation across Leicester. [provided].
- 5.13 PCT Healthcare Limited has completed a review of the pharmacies located in the area close to the Leicester Royal Infirmary UCC catchment regarding the IMD for their postcodes.
- 5.14 The details provided in the table below, are from the Ministry of Housing Communities & Local Government – English indices of deprivation. English indices of deprivation 2019: Postcode Lookup
- 5.15 The shaded pharmacies of which there are 9 in column H of the table are all in LSOA areas with a worse overall Index of Multiple Deprivation Decile than our pharmacy FXC00.
- 5.16 Additionally, considering column J, the Health and Disability Rank there are 7 pharmacies which are located in areas with a worse Health and Disability Ranking compared to our pharmacy located on Fosse Road South (FXC00)

A	B	C	D	E	F	G	H	I	J
Pharmacy name	Distance to hospital	Postcode	Postcode status	LSOA code	LSOA Name	Index of multiple deprivation	Index of multiple deprivation decile	Health and disability rang	Health and disability decile
Hospital	0	LE1 5WW	Live	E01032875	Leicester 040D E01032875	16554	6	4495	2
Riverside Pharmacy	0.3	LE2 7HN	Live	E0103778	Leicester 023C E0103778	8762	3	3883	2

Tesco instore Pharmacy	0.5	LE3 5LH	Live	E01013778	Leicester 023C E01013778	8762	3	3883	2
Vision	0.6	LE3 0LE	Live	E0103774	Leicester 023A E0103774	7942	3	10750	4
Poly Pharmacy	0.6	LE3 0BG	Live	E01013776	Leicester 023B E01013776	7493	3	5330	2
Boots	0.6	LE1 1DD	Live	E01032867	Leicester 041A E01032867	9456	3	6806	3
Patels Chemist	0.6	LE3 0PA	Live	E01013774	Leicester 023A E01013774	7942	3	10750	4
City Pharmacy	0.6	LE2 0QS	Live	E01013760	Leicester 022D E01013760	4408	2	4389	2
Boots	0.7	LE1 4FQ	Live	E01032867	Leicester 041A E01032867	9456	3	3806	3
Highem Pharmacy	0.8	LE2 0TA	Live	E01013748	Leicester 018D E01013748	2367	1	5181	2
St Stephens	0.8	LE3 0LP	Live	E01013782	Leicester 023F E01013782	12302	4	10829	4
Peak Pharmacy	0.8	LE3 0LP	Live	E01013782	Leicester 023F E01013782	12302	4	10829	4

5.17 PCT Healthcare Limited do not believe that FXC00 is located in a most deprived area neither by Indice of Multiple Deprivation (IMD) nor the Health and Disability Ranking as provided from the Ministry of Housing Communities & Local Government – English indices of deprivation.

5.18 This paragraph within the representation does not explain why FXC00 was specifically directed to open on 1 January 2026 based on the Regulations.

5.19 The next section of the representation, begins:

“The placement of directed pharmacies...”

5.20 Our pharmacy FXC00 is located 0.8 miles from the Leicester Royal Infirmary UCC at Infirmary Square, Leicester, LE1 5WW, according to NHS.uk website. [Find a pharmacy - NHS](#)

5.21 [Find a pharmacy - NHS](#) was used to populate the distances to pharmacies in the locality of the hospital (LE1 5WW).

5.22 According to NHS.uk there are eight pharmacies closer than our pharmacy to the Leicester Royal Infirmary. additionally there are another two pharmacies equidistant from the hospital as FXC00.

- 5.23 How can EMPCT conclude that our pharmacy FXC00 is located near to the hospital or a Urgent Care Centre catchment when patients requiring pharmaceutical treatment on 1 January 2026 when they could have accessed eight alternative pharmacies in a shorter distance from the hospital?
- 5.24 Additionally, there are multiple UCC facilities across Leicester as indicated in the map below [provided].
- 5.25 Regarding UCC facilities these are located throughout Leicester as indicated by the map below: [where are urgent care centres in Leicester - Search](#)
- 5.26 There are hospitals and UCCs located throughout Leicester.
- 5.27 This paragraph within the representation does not explain why FXC00 was specifically directed to open on 1 January 2026 based on the Regulations.
- 5.28 PCT Healthcare Ltd shall group together the next four paragraphs of the representation beginning:
- “The placement of directed pharmacies...”*
- “LLR comprises a mix of urban...”*
- “Nine pharmacies sites...”*
- “The nine local authority areas...”*
- 5.29 There is no specific details of the findings of a consultation or assessment undertaken by EMPCT behind this direction for our pharmacy FXC00 specifically to open on 1 January 2026 within these paragraphs as required under paragraph 25(1) and 25(6) of Schedule 4.
- 5.30 The next section of the representation begins:
- “The selection of pharmacies...”*
- 5.31 Where are the minutes of the discussions with Community Pharmacy Leicestershire and Rutland (previously LPC) and the ICB with reference to pharmaceutical provision in Leicester on 1 January 2026?
- 5.32 There are no details on the Community Pharmacy Leicestershire and Rutland (previously LPC) website.
- 5.33 The next section of the representation, begins:
- “We have used the process ...directed on a rotational basis...”*
- 5.34 PCT Healthcare Limited t/a Peak Pharmacy believe that it is not a robust enough argument to direct our pharmacy based “on a rotational basis”, especially without any evidence from the assessment being shared which specifically identifies our pharmacy FXC00 as being required to open on 1 January 2026.

5.35 Moving onto the next two paragraphs which begin:

“A geographic information system (GIS) mapping exercise...”

“We considered public transport options...”

5.36 The representation states that our pharmacy is ideally positioned to meet patient needs on 1 January 2026 due to our location however there is another pharmacy within a few minutes’ walk of our premises.

5.37 There are no specific reasons within the direction nor the representation to specify why our pharmacy was selected for this direction over a neighbouring contractor.

General Pharmaceutical Council

Pharmacy Name	Owner's Name	Address	Registration number	Status
Peak Pharmacy	PCT Healthcare Limited	Westcotes Health Centre, Fosse Road South, Leicester, Leicestershire LE3 0LP	1092230	Registered
St Stephens Chemist	Meritplan Ltd	7 Fosse Road South, Leicester, Leicestershire, LE3 0LP	1034050	Registered

5.38 Within these paragraphs reference is made to public transport.

5.39 PCT Healthcare Limited reviewed previous public transport provision on New Years Day information from Leicestermercury.co.uk. The paper on their website published the bus operators details and what services were being offered over the festive and New Year Period for 24/25 which is a good indicator of the service provision for New Years Day 2026. All the Leicestershire bus services running this Christmas and New Year - Leicestershire Live

5.40 There were no bus services offered by any bus operators (Kinchbus, Arriva, Centrebus nor First Bus) on 1 January 2025, this is a good indicator that there shall be no services operating on 1 January 2026.

5.41 Kinchbus:

5.41.1 Christmas Eve (Tuesday, December 24) – a normal Tuesday service with some earlier last buses

5.41.2 Christmas Day (Wednesday, December 25) – no services

5.41.3 Boxing Day (Thursday, December 26) – no services, except for a Sunday service on skylink Derby

5.41.4 Friday, December 27 and Saturday, December 28 – Saturday service

5.41.5 Sunday, December 29 – a Sunday service

- 5.41.6 Monday, December 30 – a Saturday service
- 5.41.7 New Year's Eve (Tuesday December 31) – Saturday service
- 5.41.8 New Year's Day (Wednesday January 1) – no services
- 5.41.9 Thursday, January 2 – buses back to normal
- 5.42 Arriva:
 - 5.42.1 Monday, December 23 – Saturday services
 - 5.42.2 Christmas Eve (Tuesday, December 24) – Saturday service with early finishes around 6pm
 - 5.42.3 Christmas Day (Wednesday, December 25) and Boxing Day (Thursday, December 26) – no services
 - 5.42.4 Friday, December 27 and Saturday, December 28 – Saturday service
 - 5.42.5 Sunday, December 29 – Sunday service
 - 5.42.6 Monday, December 30 – Saturday service
 - 5.42.7 New Year's Eve (Tuesday December 31) – Saturday service with early finishes around 6pm
 - 5.42.8 New Year's Day (Wednesday January 1) – no services
 - 5.42.9 Thursday, January 2 and Friday, January 3 – Saturday service
- 5.43 Centrebus:
 - 5.43.1 Christmas Eve (Tuesday, December 24) – normal weekday service with early finish
 - 5.43.2 Christmas Day (Wednesday, December 25) and Boxing Day (Thursday, December 26) – no services
 - 5.43.3 Friday, December 27 – Services will operate their Saturday timetables except for the Market Harborough 30 & 44, Loughborough 27, Leicester City HH, 81, 83 & 162 and 22A hourly service between Barrow upon Soa and Leicester city centre and the Saturday service between the city centre and Evington which will operate on a weekday service.
 - 5.43.4 Saturday, December 28 and Sunday, December 29 – services will operate their current timetables
 - 5.43.5 Monday, December 30 – as per levels on Friday December 27
 - 5.43.6 New Year's Eve (Tuesday December 31) – As per levels on Friday, December 27, with early finishes

- 5.43.7 New Year's Day (Wednesday January 1) – no service
- 5.43.8 Thursday, January 2 – normal service
- 5.44 First Bus:
 - 5.44.1 Monday, December 23 – normal service
 - 5.44.2 Christmas Eve (Tuesday, December 24) – Saturday service (except for service 22B which will not operate) buses will finishes early
 - 5.44.3 Christmas Day (Wednesday, December 25) and Boxing Day (Thursday, December 26) – no services
 - 5.44.4 Friday, December 27 – Saturday service
 - 5.44.5 Saturday, December 28 – Saturday service
 - 5.44.6 Sunday, December 29 – Sunday service
 - 5.44.7 Monday, December 30 – Saturday service (except for service 22B which will not operate)
 - 5.44.8 New Year's Eve (Tuesday December 31) – Saturday service (except for service 22B which will not operate) buses will finishes early
 - 5.44.9 New Year's Day (Wednesday January 1) – no services
 - 5.44.10 Thursday, January 2 – normal service
- 5.45 For those patients without access to a car
- 5.46 In conclusion, PCT Healthcare Limited t/a Peak Pharmacy believe that EMPCT have failed to provide a robust enough argument to direct our pharmacy specifically to open on 1 January 2026, especially without any evidence from the assessment being shared which specifically identifies our pharmacy FXC00 as being required to open on this day as required under paragraph 25(6) of Schedule 4.
- 5.47 In conclusion, our pharmacy has received this direction, however for the reasons discussed above we do not feel it has been made clear as to why our pharmacy, in particular, has been directed to open at 14:00 to 16:00 on 1 January 2026, as opposed to another pharmacy in Leicester."

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 New Year's Day, 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. The Appellant, within its appeal, provided a copy of the 'proposal to direct letter' from the Commissioner of 16 May 2025 which provided the Appellant with the opportunity to make representations within 30 days. Further, I note in its representations, the Commissioner states that the LPC was consulted with, which has not been disputed.
- 6.5 I am of the view that the Commissioner has undertaken a consultation process as set out in the Regulations and there is no dispute from the Appellant in this regard.
- 6.6 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.
- 6.7 I note that the direction letter stated "*There has been no voluntary offer of pharmacy provision in the Leicester [sic] area to meet the needs of people living in the area on Thursday 1 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.*"
- 6.8 In its representations, the Commissioner goes on to explain further the reasoning behind the direction and the assessment that was carried out.
- 6.9 I note that the Appellant has, in subsequent representations, disputed the Commissioner's representations relating to its premises location as well as the reasoning provided as to why the Commissioner considered the Appellant's pharmacy best placed to provide pharmaceutical services on 1 January 2026.
- 6.10 The Commissioner indicates that a "*detailed needs based assessment*" had been carried out which "*incorporates a combination of population need, geographic accessibility, local service coverage, deprivation data, and historic gaps in provision*".
- 6.11 The Commissioner went on to conclude that "*The eastern area of Leicester – in which FXC00 is located – has been identified as an area with lower coverage*"

and further *“the data confirmed that while some coverage exists during the morning and early evening, there is a consistent lack of open pharmacies in the mid-afternoon period, especially in the west central area of Leicester”*.

- 6.12 I note that the Appellant, in response, provided a map showing the location of its pharmacy which is to the west of Leicester city centre. The Commissioner has not commented on this point, which was either a typographical error or, and more significantly, a fundamental error in its assessment which leads me to question its robustness. I also note the level of detail which the Appellant has provided in respect of the index of multiple deprivation as well as the “Health and Disability Rank”. I note the comments from the Appellant that they are of the view that they are not located in the worst ranking area and should not therefore be directed to open. The Commissioner has not disputed the Appellant’s comments and whilst I agree that the Appellant’s pharmacy is located in an area of deprivation, there are other nearby areas with higher deprivation which would appear at odds with the Commissioner’s rationale for issuing the direction. I am therefore, of the view that the Commissioner has relied on rationale which is not supported by the evidence.
- 6.13 I note the Commissioner’s further comments when responding to the appeal that *“The placement of directed pharmacies was carefully considered in relation to existing Urgent Care Centres (UCCs) and NHS 111 services. There is a recognised clinical need for accessible pharmacy services to complement UCC provision, especially when minor ailments, medication queries or emergency supplies can be managed via pharmacy rather than at overstretched acute settings. FXC00 is located near the Leicester Royal Infirmary UCC catchment and can help relieve pressure on urgent care by providing local access to pharmaceutical care”*. I further noted the comments from the Commissioner with regard to access to the Appellant’s pharmacy and that *“A geographic information system (GIS) mapping exercise was carried out to ensure that no resident in LLR would be more than 20 minutes away by car from a pharmacy open at some point on New Year’s Day. The positioning of FXC00, along with the other directed pharmacies, ensures that this threshold is met even during peak demand times and despite reduced public transport.”*
- 6.14 I note the comments from the Appellant with regard to the distance to the Leicester Royal Infirmary as well as the information provided with regard to the distance to other pharmacies in the area, some of which are located closer to the Leicester Royal Infirmary than the Appellant. Whilst, I am of the view that distance is only one factor which the Commissioner should take into account when determining which pharmacies to open, it does seem odd that the Commissioner should direct a pharmacy which is 0.8 miles away from a key source of prescriptions.
- 6.15 I note the comments from the Appellant with regard to the lack of public transport in previous years, although I am mindful that this would be the case for any pharmacy located within the Leicester area. I note the comments from the Commissioner that public transport was considered alongside access by car and that taking both of these into consideration the Commissioner has come to the conclusion that the Appellant should be directed to open. However, in reality, given the lack of public transport on 1 January 2026, patients will

drive meaning that the location of other pharmacies could be as, or more, suitable than the Appellant's pharmacy.

- 6.16 I note the comments from the Appellant with regard to another pharmacy in the area which is located "*within a few minutes' walk of our premises*" and further that "*there are no specific reasons within the direction nor the representation to specify why our pharmacy was selected for this direction over a neighbouring contractor.*"
- 6.17 It is a matter for the Commissioner, based on all of the information which it has before it, to determine which pharmacies are best placed to open to ensure that there are pharmaceutical services available to meet the needs of those in the area. I do not consider a difference of "*a few minutes' walk*" between two pharmacies to be a determining factor.
- 6.18 However, I am of the view that the explanation of the Commissioner's assessment in its representations on this appeal, in particular the error and the rationale unsupported by the evidence, does not provide me 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.
- 6.19 I am not satisfied with the Commissioner's assessment and I consider that the Commissioner has not provided sufficient information to support the conclusion reached.
- 6.20 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.
- 6.21 On the basis of the information available to me, and the reasons given above, I am not 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 not 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 The appeal is granted and, pursuant to paragraph 25(3)(c)(ii), no direction is issued.

**Head of Appeals
NHS Resolution**