

27 October 2025

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FILE REF: SHA/26695

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COMMISSIONER: NHS DERBY AND DERBYSHIRE
INTEGRATED CARE BOARD
("the Commissioner")

PHARMACIST: PCT HEALTHCARE LTD
T/A PEAK PHARMACY (FF562)
("the Appellant")

PREMISES: 40 NOTTINGHAM ROAD
ILKESTON
DE7 5NL

**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
East Midlands Primary Care Team for the Commissioner

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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 14:00 to 16:00 on Christmas Day, 25 December 2025.
- 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 14:00 to 16:00 on Christmas Day, 25 December 2025, a day on which it would otherwise be closed.

2 The Direction

In a letter to the Appellant dated 30 July 2025, the Commissioner stated:

- 2.1 "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. I can confirm that we have not been notified of any pharmacies that will be open in Derbyshire on Christmas Day 25th December 2025, and no pharmacies have volunteered to open on this day.
- 2.2 Under section 126 of the NHS Act 2006 (Arrangements for pharmaceutical services), NHS England (now delegated to the ICBs) must make arrangements for the provision, to persons who are in England, of:
 - 2.2.1 "(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,

- 2.2.2 (b) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a dental practitioner in pursuance of—
 - 2.2.2.1 (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
 - 2.2.2.2 (ii) his functions in the armed forces of the Crown,
- 2.2.3 (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,
- 2.2.4 (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
- 2.2.5 (e) such other services as may be prescribed.”
- 2.3 In light of the fact no pharmacies will be open on Christmas Day 25th December 2025, NHS Derby and Derbyshire 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.
- 2.4 NHS Derby and Derbyshire ICB has therefore considered what arrangements need to be put in place on Christmas Day 25th December 2025 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 day that is not a bank or public holiday, there will still be a need for pharmaceutical services by people who live within Ilkeston, Derbyshire or are visiting the area. Whilst GP practices will be closed on Christmas Day 25th December 2025, other providers of NHS services will be open to treat patients, such as the GP out of hours service and A&E departments.
- 2.5 We note that in SHA/24664 (issued on 15 December 2021) the head of operations, Primary Care Appeals, stated that they were of the view that the days in question (Sunday 26 December 2021 and Saturday 1 January 2022) are, in relation to pharmaceutical services, no different from any other day and that they had seen no information in that appeal which indicated a change of attitude towards those particular days (from a pharmaceutical services perspective).
- 2.6 We believe that, as a minimum, the services for which there will be a need on Christmas Day 25th December 2025 are as follows.

- 2.6.1 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.
- 2.6.2 The Pharmacy First service for the urgent supply of repeat medicines, referrals from NHS111 for low acuity, minor illnesses or under one of the clinical pathways.
- 2.6.3 The NHS pharmacy contraception advanced service, particularly as it is being expanded to include the provision of emergency contraception from October 2025.
- 2.7 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 Christmas Day 25th December 2025 and therefore at present the ICB is unable to discharge the duty as set out in section 126 of the NHS Act 2006.
- 2.8 We have consulted with Community Pharmacy Derbyshire representatives and made them aware of our intentions to issue this direction, and the rationale behind the proposal. Community Pharmacy Derbyshire are in support of the need to ensure adequate pharmaceutical provision on Christmas Day 25th December 2025 and are willing to provide guidance to contractors on this direction. The contact email address of Community Pharmacy Derbyshire should you wish to contact them is info@cpderbyshire.org.uk
- 2.9 We informed your pharmacy that our team was conducting 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, as amended. The pharmacy was issued with a proposal to direct letter dated 5th June 2025 which was sent on 6th June 2025 to the email address we have on file for your pharmacy, pharmacy.ff562@nhs.net
- 2.10 This assessment has now concluded, and we are aware that representations were submitted to Derby and Derbyshire ICB in response to the proposed direction. These representations were as follows:
- 2.10.1 *PCT Healthcare Limited are aware of the need for adequate pharmaceutical services provision. However, we feel that this particular proposal has not been based on adequate research and reasoning by the ICB.*
- 2.10.2 *There is no detail within the email from the ICB, as it is generic letter, to indicate the reasons as to how or why this proposal supports an assessment which concluded the pharmaceutical needs of the relevant persons (our patients) will not be met on this day that we are required to open our pharmacy, FF562 in the Ilkeston area.*
- 2.10.3 *Under Schedule 4 paragraph (25)(6)(a) of the NHS Pharmaceutical and LPS Regulations NHS England must include with the proposal 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 25 December 2025.

2.10.4 *In particular, the letter received make no reference to any specific results linking our pharmacy to any lack of service provision on 25 December 2025. Furthermore, there is no actual details of the findings of a consultation or assessment, and therefore no reasons behind the proposal which is contrary to paragraph 25(1) and 25(6) of Schedule 4.*

2.10.5 *This pharmacy FF562 opened under a direction from Derby and Derbyshire ICB on Christmas Day 2024 for 2 hours; why would the ICB request the same contractor to open again on Christmas Day in 2025 when there are several contractors within the Ilkeston area.*

2.10.6 *In conclusion, our pharmacy has received this proposal, 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 25 December 2025, as opposed to another pharmacy in the Ilkeston area*

2.11 In response to these representations, Derby and Derbyshire ICB have considered the representation and a paper was taken to the East Midlands Pharmacy Services Regulatory Committee (PSRC) for discussion. The East Midlands Pharmacy Services Regulatory Committee (PSRC) concluded that:

2.11.1 The representation presented by the contractor does not provide adequate reasoning as to why they direction should not take place.

2.12 Derby and Derbyshire ICB will therefore be proceeding with issuing the pharmacy with the enclosed direction following the recommendation of the East Midlands Pharmacy Services Regulatory Committee (PSRC).

2.13 Your core opening hours on **Christmas Day 25th December 2025** are therefore: **14:00 – 16:00**.

2.14 The reasons for directing the above pharmacy to open are:

2.14.1 There is a need to provide pharmaceutical services in Derbyshire where there is currently no provision on Christmas Day 25th December 2025.

2.14.2 There has been no voluntary offer of pharmacy provision in the Derbyshire to meet the needs of people living in the area on Christmas Day 25th December 2025.

2.14.3 Your pharmacy is located in proximity to an urgent treatment centre, Ilkeston Health Centre. 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/bank holiday when public transport is limited. This proposed direction would also benefit the local health system, as patients requiring advice as part of Pharmacy First 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.

- 2.14.4 Your pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within Derby and Derbyshire ICB area 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 Insert Derby and Derbyshire 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.
- 2.15 The level of remuneration for Christmas Day 25th December 2025, will be £350.00 per hour for a maximum of 2 hours. Please ensure that you submit a claim for opening through PharmOutcomes within 28 calendar days of the directed day. If this is not claimed within 28 calendar days, our team will issue a final reminder, and you will have a further 17 calendar days to submit a claim (within 45 calendar days of the directed day). Please note that claims submitted outside of this 45-calendar day deadline will not be paid. If you anticipate any difficulties in submitting the claim, please contact our team via england.eastmidspharmacy@nhs.net at your earliest convenience. If no claim is made, this will be investigated by NHS Derby and Derbyshire ICB in order to establish whether or not there has been a breach of the terms of service.
- 2.16 Please ensure that you update the pharmacy's profile on the NHS England directory of service (DOS) and NHS.UK using profile manager with the hours that you are being directed to open.
- 2.17 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
- 2.17.1 Primary Care Appeals Case Manager, NHS Resolution, 8th Floor 10 South Colonnade, Canary Wharf, London, E14 4PU
- 2.18 If you have any questions, please do not hesitate to contact me."

3 The Appeal

In a letter to NHS Resolution dated 26 August 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 in a full direction letter for the above pharmacy to open on 25 December 2025 at 14:00 until 16:00, PCT Healthcare Limited writes to appeal to the Primary Care Appeals Unit.
- 3.2 PCT Healthcare Limited 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 East Midlands Primary Care Team (EMPCT).

- 3.3 There is no detail within the letter from the EMPCT, as it is generic, to indicate the reasons as to how or why this direction supports an assessment which concluded the pharmaceutical needs of the relevant persons (our patients) will not be met on this day that we are required to open our pharmacy, FF562 in the Ilkeston area.
- 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 25 December 2025.
- 3.5 In particular, the letter received makes no reference to any specific results linking our pharmacy to any lack of service provision on 25 December 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 With regards to the assessment mentioned where are the results of this assessment, why have they not been shared with contractors in our locality, and in particular our pharmacy FF562.
- 3.7 In addition where are the minutes of the engagement with Community Pharmacy Derbyshire and the ICB with reference to pharmaceutical provision on 25 December 2025.
- 3.7.1 Hospitals & Urgent treatment centres
- 3.8 With regards to our pharmacy location within Ilkeston there are six community pharmacies located closer to the Urgent Treatment Centre at Ilkeston Hospital (DE7 8LN) in Ilkeston according to NHS.uk. [Find a pharmacy - NHS](#)

3.9 [NOTE Table below is revised at paragraph 5.10]

Pharmacy	Postcode	Distance to UCC (miles)
UCC Centre	DE7 8LN	0
Evans Pharmacy	DE7 8ES	0.6
Evans Pharmacy	DE7 8FD	0.7
Boots	DE7 8AH	1.1
Peak Pharmacy – FF562 [sic]	DE7 5QJ	1.2
Peak Pharmacy – FF562 [sic]	DE7 5QJ	1.5

Awsorth Pharmacy	NG16 2SN	1.5
Peak Pharmacy – FF562	DE7 5NL	1.7

3.10 Public transport on Christmas Day

3.11 PCT Healthcare Limited reviewed previous public transport provision on Christmas Day 2024 information from Trent Barton website:

3.12 [Christmas and New Year buses - trent barton](#) in 24/25.

3.13 The bus operator on their website published what services were offered over the festive and New Year Period for 24/25 which is a good indicator of the service provision for Christmas Day 2025.

3.13.1 “Here is how we’re running over the festive period.

3.13.2 Christmas Eve, Tuesday 24 December 2024

3.13.3 Current Tuesday service with last departure around 6pm.

3.13.4 Christmas Day, Wednesday 25 December 2024

3.13.5 Sorry no service.”

3.14 There were no bus services offered by any bus operators on Christmas Day 2024, this is a good indicator that there shall be no services operating Christmas Day 2025.

3.15 This paragraph within the direction letter does not explain why FF562 was specifically directed to open on 25 December 2025 based on the Regulations.

3.15.1 Deprivation details for pharmacies in Ilkeston.

3.16 PCT Healthcare Limited has completed a review of the pharmacies located close to the Ilkeston Urgent Treatment Centre, Ilkeston Hospital, Heanor Road, Ilkeston, DE7 8LN regarding the IMD for their postcodes.

3.17 The details provided in the table below, are from the Ministry of Housing Communities & Local Government – [English indices of deprivation 2019: Postcode Lookup](#)

3.18 The shaded pharmacies of which there are six in column H of the table are all in LSOA areas with a similar overall Index of Multiple Deprivation Decile (IMD) to including our pharmacy FF562.

3.19 Additionally, considering column J, the Health and Disability Rank the same six pharmacies are located in areas with a similar Health and Disability Ranking compared to our pharmacy located on Nottingham Road (FF562), with one

pharmacy which is closer to Ilkeston Hospital being in a lower Health and Disability decile.

- 3.20 PCT Healthcare Limited has proved that FF562, compared to other nearby pharmacies, is not located in a more deprived area neither by Indices of Multiple Deprivation (IMD) nor the Health and Disability Ranking as provided from the Ministry of Housing Communities & Local Government – English indices of deprivation.

3.21 [NOTE Table below is revised at paragraph 5.5.]

A	B	C	D	E	F	G	H	I	J
Pharmacy	Postcode	Distance to UCC (miles)	Postcode Status	LSOA code	LSOA Name	Index of multiple Deprivation Rank	Index of multiple Deprivation Decile	Health and Disability Rank	Health and Disability Decile
UCC Centre	DE7 8LN	0	Live	E01019663	Erewash 001C E01019663	227	1	597	1
Evans Pharmacy	DE7 8ES	0.6	Live	E01019672	Erewash 003E E01019672	7556	3	7466	3
Evans Pharmacy	DE7 8FD	0.7	Live	E01019661	Erewash 003C E01019661	6875	3	6130	2
Boots	DE7 8AH	1.1	Live	E01019672	Erewash 003E E01019672	7556	3	7466	3
Peak Pharmacy – FF562 [sic]	DE7 5QJ	1.2	Live	E01019672	Erewash 003E E01019672	7556	3	7466	3
Peak Pharmacy – FF562 [sic]	DE7 5QJ	1.5	Live	E01019672	Erewash 003E E01019672	7556	3	7466	3
Awsorth Pharmacy	NG16 2SN	1.5	Live	E01033413	Broxtowe 016G E01033413	16941	6	15254	5
Peak Pharmacy – FF562	DE7 5NL	1.7	Live	E01019690	Erewash 003F E01019690	9834	3	8341	3

- 3.22 This paragraph within the direction does not explain why FF562 was specifically directed to open on 25 December 2025 based on the Regulations.

- 3.23 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 on 25 December 2025, as opposed to another pharmacy in the Ilkeston area.”

4 Representations

In a letter to NHS Resolution dated 18 September 2025 the Commissioner stated:

- 4.1 “Thank you for your letter dated 27th August 2025 notifying us that PCT Healthcare Ltd T/A Peak Pharmacy (FF562) has appealed against Derby and Derbyshire Integrated Care Boards (ICBs) decision to direct their pharmacy (FF562) to open on Christmas Day 2025.
- 4.2 We note that Peak Pharmacy (FF562) are appealing this direction for the reasons listed below:
- 4.3 [Quotes paragraphs 3.2 to 3.5, 3.8 to 3.11, 3.14, 3.16 to 3.22 from the Appeal above.]
- 4.4 The East Midlands Primary Care Team on behalf of Derby and Derbyshire Integrated Care Board would like to make the following representations with respect to the aforementioned appeal.
- 4.5 NHS Derby and Derbyshire 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.
- 4.6 The regulations state:
 - 4.6.1 *“(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 –*
 - 4.6.1.1 *(a)the reasons for the change and*
 - 4.6.1.2 *(b)P’s right of appeal under paragraph (7).”*
- 4.7 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.
- 4.8 NHS Derby and Derbyshire ICB have not been notified of any pharmacies that will be open in the Ilkeston area on Christmas Day 2025 and no pharmacies have volunteered to open on this day. Under section 126 of the NHS Act 2006 (Arrangement for pharmaceutical services), NHS England (now delegated to the ICBS) must make arrangements for the provision, to person’s who are in England of:
 - 4.8.1 *(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,*

4.8.2 *(b) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a dental practitioner in pursuance of—*

4.8.2.1 *(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*

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

4.8.3 *(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,*

4.8.4 *(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*

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

4.9 In light of the fact no pharmacies will be open on Christmas Day 2025, NHS Derby and Derbyshire 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.

4.10 NHS Derby and Derbyshire ICB has considered what arrangements need to be put in place on Christmas Day 2025 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 day that is not a public holiday, there will still be need for pharmaceutical services by people who live within Ilkeston and surrounding areas or are visiting during the festive period. Whilst GP practices will be closed on Christmas Day, other providers of NHS services will be open such as the GP out of hours service and A&E departments.

4.11 We believe that, as a minimum, the services for which there will be a need on Christmas Day area as follows:-

4.11.1 *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.*

4.11.2 *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.*

- 4.11.3 *The NHS pharmacy contraception advanced service, particularly as it is being expanded to include the provision of emergency contraception from October 2025.*
- 4.12 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 Christmas Day 2025 and therefore at present the ICB is unable to discharge the duty as set out in section 126 of the NHS Act 2006.
- 4.13 NHS Derby and Derbyshire 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 england.eastmidsparmacy@nhs.net by 18 April 2025. This form enables NHS Derby and Derbyshire ICB to identify whether any pharmacies intend to open voluntarily. NHS Derby and Derbyshire ICB did not receive any volunteers within the Ilkeston area. 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.
- 4.14 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 Ilkeston, Peak Pharmacy (FF562) has been identified as meeting the needs of people in the Ilkeston area for the following reasons:
- 4.14.1 *There is a need to provide pharmaceutical services in Ilkeston where there is currently no provision on Christmas Day 2025.*
- 4.14.2 *Your pharmacy is located in proximity to an urgent treatment centre, (Ilkeston Health Centre). 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 also benefit the local health system, as patients requiring advice as part of Pharmacy First 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.*
- 4.14.3 *The pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within Derby and Derbyshire 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 Derby and Derbyshire 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.*
- 4.14.4 *Sufficient availability of public transport and car parking accessibility.*

- 4.14.5 *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 Christmas Day 2025 were sent via email to LPCs on 16 May 2025, where no rationale was provided to oppose the direction of Peak Pharmacy (FF562) on Christmas Day 2025.*
- 4.15 NHS Derby and Derbyshire ICB also reviewed the claim forms submitted by contractors who previously opening [sic] on Christmas Day within the Ilkeston 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[s] 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.
- 4.16 As a result of this assessment, it has been determined that direction is required to provide adequate pharmaceutical [sic]. Peak Pharmacy (FF562) was directed to open for the hours of 14:00-16:00 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.
- 4.17 In response to Peak Pharmacy appeal to the direction we comment as per below:-
- 4.18 (1) East Midlands Primary Care Team on behalf of Derby and Derbyshire ICB assessed the Index of Multiple Deprivation (IMD) decile to ensure coverage of pharmaceutical services in an area of deprivation, which is a priority for Derby and Derbyshire ICB to improve access to healthcare for vulnerable groups and reduce health inequalities. It also took into account the locality of pharmacies located to urgent treatment centres as this would bring benefits for patients not having to travel long distances to collect essential medications, especially on a public holiday when public transport is limited.
- 4.19 (2) East Midlands Primary Care Team on behalf of Derby and Derbyshire 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, so in order to discharge this duty, arrangements are put in place to ensure cover, albeit at a reduced level. Peak Pharmacy was informed that these arrangements have been put in place following the assessment of patients needs and the level of pharmacies located within the proximity of urgent treatment centres.
- 4.20 (3) the list provided by Peak Pharmacy (FF562) of other pharmacies within the proximity of the Urgent Treatment Centre includes Awsworth Pharmacy which doesn't come under Derby and Derbyshire ICB catchment area. Peak Pharmacy DE7 5QJ seems to be on the list twice. Evans Pharmacy are within an area that is Amber on MOSA deprivation list and as we were assessing areas that are Red as these are the most deprived, these pharmacies were not included, this left 3 pharmacies to choose from and two others are directed on other bank holidays over the festive period so it would not be right to direct

them on Christmas day as well, therefore it left us with directing Peak Pharmacy (FF562).

- 4.21 (4) Derby and Derbyshire ICB is aware of the limited availability of public transport over the festive period, therefore consideration is taken into account of directing pharmacies near to the urgent care centres, to minimise travel distances for those patients requiring pharmaceutical services.
- 4.22 (5) Derby and Derbyshire ICB is aware that the pharmacies are with a similar ranking and are all within the same deprived area relating to the MOSA Erewash 003 and have been considered for being directed, but as described in our response [above] other pharmacies have also been directed for other days over the festive period it would not be right to direct them again over the same festive period.
- 4.23 Following the assessment of the returns from the Derby and Derbyshire HWB area and engagement with the LPC a proposal to direct letter was sent to PCT Healthcare Peak Pharmacy (FXW83) [sic] on 19th November 2024. Representations against this proposal were subsequently received on 13th February 2025.
- 4.24 The decision was made to continue with the issue of the direction based on the fact that assurance could not be given that other pharmacies in the area would be open for the period detailed within the direction and the pharmacy had not included within their written representations any mitigating reasons why they should not complete the direction.
- 4.25 I would like to take this opportunity to respond to any further representations provided by PCT Healthcare Limited T/A Peak Pharmacy, 3 Scarsdale Pharmacy, Market Place, Buxton, Derbyshire SK17 6EF [sic].

Copy letter dated 5 June 2025 addressed to Peak Pharmacy, 40 Nottingham Road, Ilkeston, Derbyshire, DE7 5NL.

- 4.26 **Re: Proposal to direct the above-named pharmacy to open on Christmas Day 25th December 2025**
- 4.27 **The pharmacy's current core opening hours are**
- 4.28 Monday - Friday 09:00 – 13:00 & 13:30 – 17:30
- 4.29 Saturday & Sunday Closed
- 4.30 **The total opening hours (core & supplementary) are:**
- 4.31 Monday – Friday 09:00 – 17:30
- 4.32 Saturday 09:00 – 13:00
- 4.33 Sunday Closed
- 4.34 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. I can confirm that we have not been notified of any pharmacies that will be open in Ilkeston on Christmas Day 25th December 2025, and no pharmacies have volunteered to open on this day. Under section 126 of the NHS Act 2006 (Arrangements for pharmaceutical services), NHS England (now delegated to the ICBs) must make arrangements for the provision, to persons who are in England, of:

- 4.34.1 (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,
- 4.34.2 (b) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a dental practitioner in pursuance of—
 - 4.34.2.1(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
 - 4.34.2.2(ii) his functions in the armed forces of the Crown,
- 4.34.3 (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,
- 4.34.4 (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
- 4.34.5 (e) such other services as may be prescribed.”
- 4.35 In light of the fact no pharmacies will be open on Christmas Day 25th December 2025, NHS Derby and Derbyshire 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.
- 4.36 NHS Derby and Derbyshire ICB has therefore considered what arrangements need to be put in place on Christmas Day 25th December 2025 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 day that is not a bank or public holiday, there will still be a need for pharmaceutical services by people who live within Ilkeston or are visiting the area. Whilst GP practices will be closed on Christmas Day 25th December 2025, other providers of NHS services will be open to treat patients, such as the GP out of hours service and A&E departments.

- 4.37 We believe that, as a minimum, the services for which there will be a need on Christmas Day are as follows.
- 4.37.1 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.
- 4.37.2 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.
- 4.37.3 The NHS pharmacy contraception advanced service, particularly as it is being expanded to include the provision of emergency contraception from October 2025.
- 4.38 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 Christmas Day 25th December 2025 and therefore at present the ICB is unable to discharge the duty as set out in section 126 of the NHS Act 2006.
- 4.39 Following an initial assessment by our team, your pharmacy has been identified as meeting the needs of people in the Ilkeston for the following reasons:
- 4.39.1 There is a need to provide pharmaceutical services in DE7 area where there is currently no provision on Christmas Day 25th December 2025.
- 4.39.2 Your pharmacy is located in proximity to an urgent treatment centre, Ilkeston Health Centre. 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 also benefit the local health system, as patients requiring advice as part of Pharmacy First 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.
- 4.39.3 Your pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within Insert ICB Name 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 Derby and Derbyshire 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.
- 4.40 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:

4.41 **Christmas Day 25th December 2025**

4.42 **14:00 – 16:00**

4.43 Please note that we have consulted with Community Pharmacy Derbyshire representatives and made them aware of our intentions to propose this direction, and the rationale behind the proposal. Community Pharmacy Derbyshire are in support of the need to ensure adequate pharmaceutical provision on Christmas Day 25th December 2025 and are willing to provide guidance to contractors on this proposed direction. The contact email address of Community Pharmacy Derbyshire should you wish to contact them is nhunter@cpderbyshire.org.uk

4.44 If you wish to make written representations to assist us in our assessment as to whether or not to issue a direction and/or about the proposed direction, they should be sent to england.eastmidspharmacy@nhs.net within 30 days of the date of this letter, i.e. by 05/07/2025.

4.45 If you have any questions, please do not hesitate to contact me.”

Copy letter dated 30 July 2025 addressed to Peak Pharmacy, 40 Nottingham Road, Ilkeston, Derbyshire, DE7 5NL

4.46 [see paragraphs 2.1 to 2.19 above]

5 **Observations**

In a letter to NHS Resolution dated 13 October 2025 the Appellant stated:

5.1 “Thank you for your email including the representations from Derby & Derbyshire Integrated Care Boards (ICBs) dated 18/9/25.

5.2 PCT Healthcare Limited shall consider each of the points raised within the letter in turn.

5.3 **On page six, paragraph (1)** [paragraph 4.33 above].

5.4 The updated 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](#)

5.5 We accept the point made by the ICB that one of the pharmacies on this table is within Nottinghamshire this table however is to indicate that there are several pharmacies located closer to the Ilkeston Urgent Care Centre, which are located in similarly deprived areas.

A	B	C	D	E	F	G	H	I	J
Name	Distance to Ilkeston UCC	Postcode	LSOA code	LSOA Name	Index of multiple Deprivation Rank	Index of multiple Deprivation Decile	Income Rank	Health and Disability Rank	Health and Disability Decile

	centre (miles)								
UCC Centre	0	DE7 8LN	E01019638	Erewash 016A E01019638	24631	8	25401	14774	5
Evans Pharmacy – Skeavingtons Lane	0.6	DE7 8SX	E01019663	Erewash 001C E01019663	227	1	68	597	1
Evans Pharmacy – Old Station Road	0.7	DE7 8ES	E01019672	Erewash 003E E01019672	7556	3	8691	7466	3
Boots – 48a Bath St	1.1	DE7 8FD	E01019661	Erewash 003C E01019661	6875	3	9373	6130	2
Peak Pharmacy – Bath St	1.2	DE7 8AH	E01019672	Erewash 003E E01019672	7556	3	8691	7466	3
Well – South St	1.5	DE7 5QJ	E01019672	Erewash 003E E01019672	7556	3	8691	7466	3
Peak Pharmacy – South St	1.5	DE7 5QJ	E01019672	Erewash 003E E01019672	7556	3	8691	7466	3
Awsorth Pharmacy – Lawrence Avenue	1.5	NG16 2SN	E01033413	Broxtowe 016G E01033413	16941	6	17517	15254	5
Peak Pharmacy – Nottingham Road (FF562)	1.7	DE7 5NL	E01019690	Erewash 003F E01019690	9834	3	8319	8341	3

5.6 **On page 6, paragraph (2):** [paragraph 4.34 above]

5.7 With regards to the assessment mentioned within this paragraph where are the results of this assessment, why have they not been shared with contractors in the Ilkeston locality, and in particular our pharmacy FF562.

5.8 **On page 6, paragraph (3):** [paragraph 4.35 above]

5.9 PCT Healthcare Limited want to thank the ICB for pointing out the typos in the previously supplied table.

5.10 Please see above for a corrected table of distances to pharmacies and deprivation indices. We have kept the Awsorth Pharmacy in the table to

indicate pharmacy distances from the Urgent Care Centre we are fully aware that this pharmacy is based within Nottinghamshire. This pharmacy is not mentioned with regards to pharmacies in the deprived area as Awsworth is not as deprived as Ilkeston as shown by the detail above.

Name	Distance to Ilkeston UCC centre (miles)	Postcode
UCC Centre	0	DE7 8LN
1. Evans Pharmacy – Skeavingtons Lane	0.6	DE7 8SX
2. Evans Pharmacy – Old Station Road	0.7	DE7 8ES
3. Boots – 48a Bath St	1.1	DE7 8FD
4. Peak Pharmacy – Bath St	1.2	DE7 8AH
5. Well – South St	1.5	DE7 5QJ
6. Peak Pharmacy – South St	1.5	DE7 5QJ
7. Peak Pharmacy – Nottingham Road (FF562)	1.7	DE7 5NL

5.11 **On page 6, paragraph (4):** [paragraph 4.36 above]

5.12 Regarding this point we wish to respectfully refer NHS Resolution to our previous appeal letter and distances from NHS.uk from pharmacies in Ilkeston to the Ilkeston Hospital (Urgent Care Centre).

5.13 **On page 7, paragraph (5):** [paragraph 4.37 above]

5.14 PCT Healthcare Limited t/a Peak Pharmacy respectfully submit to NHS Resolution that it is not a robust enough argument to direct our pharmacy based on the fact that:

5.15 *“other pharmacies have also been directed for other days over the festive period...,”* especially without any evidence from the assessment being shared which specifically identifies our pharmacy FF562 as being required to open on 25 December 2025.

5.16 As shown by the table below [sic] there are seven pharmacies within Ilkeston, there are not seven exceptional Bank Holidays requiring pharmaceutical cover over the festive and New Year period in 2025-2026.

- 5.17 Our pharmacy FF562 opened on Christmas Day 2024 most ICBs operate a system where the exceptional days are shared between pharmacy contractors to not burden the same pharmacy team on Christmas Day or New Years Day each year.

5.17.1 *"The Pharmacy First service..."*

- 5.18 What are the numbers of Pharmacy First provisions during a previous Bank Holiday in Ilkeston this detail was not included in the direction to FF562?
- 5.19 Under Schedule 4 paragraph (25)(6)(a) of the NHS Pharmaceutical and LPS Regulations NHS England the direction 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 25 December 2025.
- 5.20 In particular, these representations make no reference to any specific results linking our pharmacy to any lack of service provision on 25 December 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.
- 5.21 With regards to the assessment mentioned where are the results of this assessment, why have they not been shared with contractors in our locality, and in particular our pharmacy FF562?
- 5.22 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 on 25 December 2025, as opposed to another pharmacy in Ilkeston."

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 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 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 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 or from 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 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 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 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.*

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 Christmas 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. Although I have not been provided with a copy of the consultation with the LPC, I note in its letter of 5 June 2025 addressed to the Appellant, inviting representations on the proposed direction, the Commissioner states *“Please note that we have consulted with Community Pharmacy Derbyshire representatives and made them aware of our intentions to propose this direction, and the rationale behind the proposal. Community Pharmacy Derbyshire are in support of the need to ensure adequate pharmaceutical provision on Christmas Day 25th December 2025 and are willing to provide guidance to contractors on this proposed direction.”* Further, I note the letter provided the Appellant with the opportunity to make representations within 30 days. The Appellant made representations to the Commissioner. The representations are contained within the Commissioner’s decision report at 2.10.1 to 2.10.6 above.
- 6.5 From the information before me, I am of the view that the Commissioner carried out some form of assessment in line with the Regulations.
- 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 the Appellant’s comments that *“the letter received makes no reference to any specific results linking our pharmacy to any lack of service provision on 25 December 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.”*
- 6.8 In its representations on the appeal, the Commissioner provides its assessment that *“as a minimum, the services for which there will be a need on Christmas Day area as follows:-*
- 6.8.1 *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.*
 - 6.8.2 *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.*
 - 6.8.3 *The NHS pharmacy contraception advanced service, particularly as it is being expanded to include the provision of emergency contraception from October 2025.”*

- 6.9 The Commissioner, in its representations, refers to its reasons for selecting the Appellant's pharmacy to be directed at 14:00 to 16:00 on 25 December 2025 where there is currently no provision on Christmas Day 2025 which included an initial assessment by the Commissioner. The reasons included the pharmacy location in proximity to the urgent treatment centre, the pharmacy being located within or close to a Middle Layer Super Output area identified as deprived based on the Index of Multiple Deprivation and the availability of public transport and car parking accessibility.
- 6.10 The Commissioner noted "*Consultations are held regularly with the Local Pharmaceutical Committee for pharmaceutical provision of upcoming public or bank holidays.*" The Commissioner refers specifically to an email sent to the LPCs on 16 May 2025. I note I have not been provided with a copy this email or the findings from the consultations with the LPC.
- 6.11 I further note that the Commissioner states it "*reviewed the claim forms submitted by contractors who previously opening on Christmas Day within the Ilkeston 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.*" I note I have not been provided with this data which supports a finding that the Appellant should open from 14:00 to 16:00 on 25 December 2025.
- 6.12 In response to specific points raised in the appeal, the Commissioner states it "*assessed the Index of Multiple Deprivation (IMD) decile to ensure coverage of pharmaceutical services in an area of deprivation. It also took into account the locality of pharmacies located to urgent treatment centres as this would bring benefits for patients not having to travel long distances to collect essential medications, especially on a public holiday when public transport is limited.*" I have noted the updated table which provides the distances to pharmacies in the area in relation to the urgent treatment centre. 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, I note that the Appellant is located 1.7 miles from the urgent treatment centre and therefore the furthest pharmacy away from the key source of prescriptions.
- 6.13 The Commissioner noted the "*limited availability of public transport over the festive period, therefore consideration is taken into account of directing pharmacies near to the urgent care centres, to minimise travel distances for those patients requiring pharmaceutical services.*"
- 6.14 In response I note the comments from the Appellant with regard to the lack of public transport in 2024, although I am mindful that this would be the case for any pharmacy located within the 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, patients will likely drive meaning that

the location of other pharmacies could be as, or more, suitable than the Appellant's pharmacy. Furthermore, I have no information as to why the Appellant's premises has better access than other pharmacies.

- 6.15 The Commissioner explains why some of these pharmacies (which are closer) were disregarded. Whilst assessing areas which are red on the MOSA deprivation list the Commissioner stated *"this left 3 pharmacies to choose from and two others are directed on other bank holidays over the festive period so it would not be right to direct them on Christmas day as well, therefore it left us with directing Peak Pharmacy (FF562)."*
- 6.16 However, directing pharmacies, taking into account those pharmacies which have opened previously, or directions *"on other bank holidays over the festive period"* does not provide a robust assessment of the need for pharmaceutical provision in terms of securing access to services to patients.
- 6.17 In my view the assessment and decision to direct should be based on patient needs taking into account, amongst other things, where people live, means of access, if they have any specific needs and the location of medical services. One factor may outweigh others or it might be the totality of factors of equal weighting that support a conclusion as to whether to direct.
- 6.18 Based on the information before me, I am not satisfied with the Commissioner's assessment or the reasoning that lies behind the direction which does not clearly demonstrate why this pharmacy, which is furthest away from the urgent treatment centre, should open. I consider that the Commissioner has not provided sufficient information to support the conclusion reached.
- 6.19 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.
- 6.20 On the basis of the information available to me, 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 Christmas Day, 25 December 2025 such that it is not appropriate to issue a direction requiring the Appellant's pharmacy to open on the day and time 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