

4 November 2025

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10 South Colonnade
Canary Wharf
London
E14 4PU

FILE REF: **SHA/26694**

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

COMMISSIONER: **Nottingham and Nottinghamshire ICB**
("the Commissioner")

PHARMACIST: **PCT Healthcare Ltd t/a Peak Pharmacy**
(FFV66)
("the Appellant")

PREMISES: **PCT Healthcare Ltd t/a Peak Pharmacy**
Harwood Close
Skegby Road
Sutton-in-Ashfield
Nottinghamshire
NG17 4PD

**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:

East Midlands Primary Care Team on behalf of Nottingham and Nottinghamshire ICB
PCT Healthcare Ltd t/a Peak Pharmacy

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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 2pm to 4pm on Thursday 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 2pm to 4pm on Thursday 25 December 2025, a day on which it would otherwise be closed.

2 The Direction

In a letter to the Appellant dated 31 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 Sutton in Ashfield on Christmas Day 25 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 25 December 2025, NHS Nottingham and Nottinghamshire 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 Nottingham and Nottinghamshire ICB has therefore considered what arrangements need to be put in place on Christmas Day 25 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 Sutton in Ashfield or are visiting the area. Whilst GP practices will be closed on Christmas Day 25 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 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 25 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 Nottinghamshire representatives and made them aware of our intentions to issue this direction, and the rationale behind the direction. Community Pharmacy Nottinghamshire are in support of the need to ensure adequate pharmaceutical provision on Christmas Day 25 December 2025 and are willing to provide guidance to contractors on this direction. The contact email address of Community Pharmacy Nottinghamshire should you wish to contact them is nickhunter@cpnotts.org
- 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 which was sent on 5 June 2025 to the email address we have on file for your pharmacy, pharmacy.ffv66@nhs.net.
- 2.10 This assessment has now concluded, and our team have not received any representations on your behalf, therefore we are now issuing the pharmacy with the enclosed direction.
- 2.11 Your core opening hours on **Christmas Day 25 December 2025** are therefore: **14:00 – 16:00**
- 2.12 The reasons for directing the above pharmacy to open are:
- 2.12.1 There is a need to provide pharmaceutical services in Sutton in Ashfield where there is currently no provision on Christmas Day 25 December 2025.
 - 2.12.2 There has been no voluntary offer of pharmacy provision the Sutton in Ashfield to meet the needs of people living in the area on Christmas Day 25 December 2025.

- 2.12.3 Your pharmacy is located in proximity to an urgent treatment centre, Kings Mill Hospital. 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 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.
- 2.12.4 Your pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within Nottingham & Nottinghamshire ICB which has been identified as deprived, based on its Index of Multiple Deprivation (IMD) decile. This direction ensures that there is coverage of pharmaceutical services in an area of deprivation, which is a priority for Nottingham & Nottinghamshire 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 direction would ensure provision of dispensing for these patients.
- 2.13 The level of remuneration for Christmas Day, 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 Nottingham and Nottinghamshire ICB in order to establish whether or not there has been a breach of the terms of service.
- 2.14 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.
- 2.15 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
- 2.16 Primary Care Appeals Case Manager, NHS Resolution, 8th Floor 10 South Colonnade, Canary Wharf, London, E14 4PU
- 2.17 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, FFV66 in the Sutton-in-Ashfield 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 FFV66.
- 3.7 In addition where are the minutes of the engagement with Community Pharmacy Nottinghamshire 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 Sutton-in-Ashfield there are six community pharmacies located within 2 miles of the Kings Mill Hospital in Sutton-in-Ashfield according to NHS.uk.
- 3.9 Additionally, there are three Urgent Treatment Centres within Sutton-in-Ashfield [sic], our pharmacy FFV66 is not located in the proximity of all three as indicated on the map below.
- 3.9.1 Public transport on Christmas Day
- 3.10 PCT Healthcare Limited reviewed previous public transport provision on Christmas Day 2024 information from the Mansfield and Ashfield Chad.www.chad.co.uk

- 3.11 [Trentbarton announces times for Christmas and new year bus services](#) in 2024/25.
- 3.12 *“There will be no services on Christmas Day or New Year’s Day, while on Boxing Day only the Skylink Nottingham and Skylink [Derby](#) services will run, operating a Sunday service.”*
- 3.13 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 Christmas Day 2025.
- 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 FFV66 was specifically directed to open on 25 December 2025 based on the Regulations.
- 3.15.1 Deprivation details for pharmacies in Sutton-in-Ashfield
- 3.16 PCT Healthcare Limited has completed a review of the pharmacies located within two miles of the Kings Mill Hospital regarding [sic] 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. English indices of deprivation 2019: Postcode Lookup](#).
- 3.18 The shaded pharmaces [sic] of which there are six in column E of the table are all in LSOA areas with a worse overall Index of Multile Deprivation Decile (IMD) than our pharmacy FFV66.
- 3.19 Additionally, considering column H, the Health and Disability Rank the same six pharmacies are located in areas with a worse Health and Disability Ranking compared to our pharmacy located on Harwood Close (FFV66).
- 3.20 PCT Healthcare Limited has proved that FFV66, compared to other nearby pharmacies, is not located in a 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.

3.21

Pharmacy	Postcode	LSOA code	LSOA Name	Index of Multiple Deprivation Rank	Index of Multiple Deprivation Decile	Health & Disability Rank	Health & Disability Decile

Peak Pharmacy - FFV66	NG17 4PD	E01027984	Ashfield 002D E01027984	20227	7	13236	5
Ladybrook Pharmacy	NG18 5JP	E01028248	Mansfield 010F E01028248	6774	3	5610	2
Orchard Pharmacy	NG18 5GG	E01028268	Mansfield 008D E01028268	2691	1	5326	2
Asda Pharmacy	NG17 2AH	E01027965	Ashfield 005B E01027965	1331	1	470	1
Boots	NG17 1BN	E01027965	Ashfield 005B E01027965	1331	1	470	1
Superdrug	NG17 1BP	E01027968	Ashfield 005C E01027968	1855	1	1593	1
Peak Pharmacy -	NG17 1AT	E01027976	Ashfield 005E E01027976	3121	1	1333	1

3.22 This paragraph within the direction does not explain why FFV66 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 Sutton-in-Ashfield area.”

4 Representations

In a letter to NHS Resolution dated 2 October 2025, the Commissioner stated:

4.1 “Thank you for your letter dated 2 September 2025 notifying us that Peak Pharmacy (FFV66) has appealed against NHS Nottingham and Nottinghamshire Integrated Care Boards (ICBs) decision to direct their pharmacy (FFV66) to open on Christmas Day 25 December 2025.

4.2 We note that Peak Pharmacy (FFV66) are appealing this direction for the reasons listed below;

- 4.2.1 *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, FFV66 in the Sutton-in Ashfield area.*
- 4.2.2 *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.*
- 4.2.3 *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.*
- 4.3 The East Midlands Primary Care Team on behalf of NHS Nottingham and Nottinghamshire ICB would like to make the following representations:
- 4.4 NHS Nottingham and Nottinghamshire 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.
- 4.5 The regulations state;
- 4.6 *“(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 -*
- 4.7 *(a)the reasons for the change and*
- 4.8 *(b)P’s right of appeal under paragraph (7).”*
- 4.9 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.
- 4.10 NHS Nottingham and Nottinghamshire ICB have not been notified of any pharmacies that will be open in the Sutton-in Ashfield area on Christmas Day 25 December 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 persons who are in England of;
 - 4.10.1 *“(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,

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

4.10.2.1 *(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*

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

4.10.3 *(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,*

4.10.4 *(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*

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

4.11 In light of the fact no pharmacies will be open on Christmas Day 25 December 2025 NHS Nottingham and Nottinghamshire 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.

4.12 NHS Nottingham and Nottinghamshire ICB has considered what arrangements need to be put in place on Christmas Day 25 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 Thursday that is not a public holiday, there will still be a need for pharmaceutical services by people who live within Sutton-in-Ashfield and surrounding areas or are visiting during the festive period. Whilst GP practices will be closed on Christmas Day 25 December 2025, other providers of NHS services will be open such as the out of hours services and A&E departments.

4.13 We believe that, as a minimum, the services for which there will be a need on Christmas Day 25 December 2025 are as follows.

4.13.1 *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.*

- 4.13.2 *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.*
- 4.13.3 *The NHS pharmacy contraception advanced service, particularly as it is being expanded to include the provision of emergency contraception from October 2025.*
- 4.14 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 25 December 2025 and therefore at present NHS Nottingham and Nottinghamshire ICB is unable to discharge the duty as set out in section 126 of the NHS Act 2006.
- 4.15 NHS Nottingham and Nottinghamshire 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.eastmidspharmacy@nhs.net by 18 April 2025. This form enables NHS Nottingham and Nottinghamshire ICB to identify whether any pharmacies intend to open voluntarily. NHS Nottingham and Nottinghamshire ICB did not receive any volunteers within the 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.
- 4.16 An initial assessment undertaken by the East Midlands Primary Care Team, drawing on the Pharmaceutical Needs Assessment (PNA), levels of deprivation within Nottinghamshire, and the distribution of urgent care centres and emergency departments, identified a requirement for pharmaceutical provision in the area. Peak Pharmacy (FFV66) has been determined to meet the needs of the Sutton-in-Ashfield population for the following reasons:
- 4.16.1 *There is a need to provide pharmaceutical services in Sutton in Ashfield where there is currently no provision on Christmas Day 25 December 2025.*
- 4.16.2 *There has been no voluntary offer of pharmacy provision the Sutton in Ashfield to meet the needs of people living in the area on Christmas Day 25 December 2025.*
- 4.16.3 *Your pharmacy is located in proximity to an urgent treatment centre, Kings Mill Hospital. 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 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.*
- 4.16.4 *Your pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within Nottingham & Nottinghamshire ICB which has been identified as deprived, based on*

its Index of Multiple Deprivation (IMD) decile. This direction ensures that there is coverage of pharmaceutical services in an area of deprivation, which is a priority for Nottingham & Nottinghamshire 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 direction would ensure provision of dispensing for these patients.

4.16.5 *Consultations are held regularly with the Local Pharmaceutical Committee for pharmaceutical provision of upcoming public or bank holidays. On this occasion a meeting was held on 21 May 2025 with a representative of the LPC to discuss the proposed pharmacies for direction, and no rationale was provided to oppose the direction of Peak Pharmacy (FFV66) on Christmas Day 25 December 2025.*

4.17 As a result of NHS Nottingham and Nottinghamshire ICB assessment, it has been determined that direction is required to provide adequate pharmaceutical services. Peak Pharmacy (FFV66) 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.

4.18 In response to:

4.18.1 *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, FFV66 in the Sutton-in-Ashfield area.*

4.19 A diligent assessment was undertaken, as set out above, with the pharmacy being identified as meeting this assessment criteria and subsequently being issued with a direction. An explanation as to why the pharmacy was issued with a direction was provided to them in their direction letter, sent to the pharmacy via email on 1 August 2025 letter dated 31 July 2025.

4.20 In response to:

4.20.1 *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.*

4.20.2 *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.*

- 4.21 As previously stated, Peak Pharmacy (FFV66) was issued with a direction following NHS Nottingham and Nottinghamshire ICB's diligent assessment process. Other pharmacies in the Sutton-in-Ashfield area were considered as part of this process. However, the assessment takes into account the geographical location of pharmacies within the agreed locality, the proximity to an urgent care centre and the proximity to a deprived MSOA and in this instance FFV66 was selected to ensure equitable access for patients and likely users of the service.
- 4.22 As set out in the direction letter, Peak Pharmacy (FFV66) is located within, or in close proximity to, a deprived area. This direction secures pharmaceutical service provision within a designated area of deprivation, supporting the ICB's statutory responsibility to improve access to healthcare and address health inequalities. Deprived areas typically show higher prevalence of long-term conditions that require consistent management, and the direction ensures appropriate dispensing provision to meet these population health needs.
- 4.23 While other pharmacies were considered, the ICB is mindful of fairness in the application of directions and seeks to avoid disproportionately impacting the same contractors. On this occasion, FFV66 was identified as the most appropriate pharmacy to secure service provision and maintain equity across providers.
- 4.24 I would like to take this opportunity to respond to any further representations provided by Peak Pharmacy (FFV66) Harwood Close, Skegby Road, Sutton-in-Ashfield, Nottinghamshire, NG17 4PD."

5 Observations

In a letter to NHS Resolution dated 16 October 2025 the Appellant stated:

- 5.1 "Thank you for your email including the representations from Nottingham & Nottinghamshire Integrated Care Boards (ICBs) dated 02 October 2025.
- 5.2 PCT Healthcare Limited shall consider each of the points raised within the letter in turn.
- 5.3 **On page 3,**
- 5.3.1 "The Pharmacy First service..."
- 5.4 What are the numbers of Pharmacy First provisions during a previous Bank Holiday in Sutton-in-Ashfield this detail was not included in the direction to FFV66?
- 5.5 **On page 3,**
- 5.5.1 "*The NHS pharmacy contraception advanced service...*"
- 5.6 What are the numbers of emergency contraception (EHC) provisions during previous Bank Holidays in Sutton-in-Ashfield this detail was not included in the direction to FFV66?

- 5.7 The EHC service within Nottinghamshire has operated via Nottinghamshire County Council for over a decade, the ICB would have access to this detail.
- 5.8 **On page 5, “A diligent assessment...”**
- 5.9 With regards to the “*diligent assessment*” mentioned within this paragraph where are the results of this assessment, why have they not been shared with contractors in the Sutton-in-Ashfield locality, and in particular our pharmacy FFV66.
- 5.10 **On page 5:**
- 5.11 **“Other pharmacies in the Sutton-in-Ashfield...”**
- 5.12 Regarding this point we wish to respectfully refer NHS Resolution to our previous appeal letter dated 22 August 2025 and the details previously provided in the table below from the Ministry of Housing Communities & Local Government – English indices of deprivation. [English indices of deprivation 2019: Postcode Lookup](#)
- 5.13 **On page 5:**
- 5.14 ***In response to the deprivation indexes PCT Healthcare Limited wish NHS Resolution to refer to our appeal letter dated 22 August 2025.***
- 5.15 As PCT Healthcare Limited included in our appeal letter of 22 August 2025.
- 5.16 The representation letter does not fully explain why FFV66 was directed for 25 December 2025 by the ICB according to the Regulations.
- 5.17 **On page 5: “While other pharmacies were considered”**
- 5.18 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, ***“the ICB is mindful of fairness”***.
- 5.19 **On page 6:**
- 5.20 ***“... and seeks to avoid disproportionately impacting the same contractors.”***
- 5.21 Within Sutton in Ashfield according to NHS.uk there are ten pharmacies, here [sic] are not ten exceptional Bank Holidays requiring pharmaceutical cover over the festive and New Year period in 2025-2026.
- 5.22

Pharmacy	Postcode
Peak Pharmacy - FFV66	NG17 4PD
Ladybrook Pharmacy	NG18 5JP

Orchard Pharmacy	NG18 5GG
Asda Pharmacy	NG17 2AH
Boots	NG17 1BN
Superdrug	NG17 1BP
Peak Pharmacy –	NG17 1AT
Peak Pharmacy	NG17 1ES
Skegby Pharmacy	NG17 3EE
Peak Pharmacy	NG17 1JW

- 5.23 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.
- 5.24 In particular, these representations make no reference to any specific results linking our pharmacy to any lack of service provision on 25 December 2025.
- 5.25 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.
- 5.26 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 FFV66?
- 5.27 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 Sutton-in-Ashfield.”

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 2025 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 at or from the premises must be given notice of the proposed changes and given 30 days to make written representations about the proposed changes. The Commissioner provided a copy of the 'proposal to direct letter' dated 5 June 2025 which provided the Appellant with the opportunity to make representations within 30 days. Further, I note in its decision letter that the Commissioner states that the LPC was consulted with, *"a meeting was held on 21 May 2025 with a representative of the LPC to discuss the proposed pharmacies for direction"* although I note that the results of which were not shared with local contractors or the Appellant.
- 6.5 I note the Appellant's comments that the Commissioner has not made reference to any specific results linking its pharmacy to a lack of service provision on Christmas Day and that it is not a sufficient reason to direct its pharmacy to open on a rolling/rota basis. The Appellant also highlights that they have not been provided with copies of the minutes of the consultation with the LPC and remains of the view that the Commissioner has not provided sufficient reasoning in line with the Regulations.
- 6.6 From the information before me I am of the view that the Commissioner carried out some form of assessment in line with the Regulations.
- 6.7 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.
- 6.8 The Appellant states that *"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, FFV66 in the Sutton-in-Ashfield area."*
- 6.9 In the direction letter, the Commissioner states that the reasons for directing the Appellant to open are *"we have not been notified of any pharmacies that will be open in Sutton in Ashfield on Christmas Day 25 December 2025, and no pharmacies have volunteered to open on this day."* The Commissioner goes on to state that *"The reasons for directing the above pharmacy to open are:*
- 6.9.1 *There is a need to provide pharmaceutical services in Sutton in Ashfield where there is currently no provision on Christmas Day 25 December 2025.*

- 6.9.2 *There has been no voluntary offer of pharmacy provision the Sutton in Ashfield to meet the needs of people living in the area on Christmas Day 25 December 2025.*
- 6.9.3 *Your pharmacy is located in proximity to an urgent treatment centre, Kings Mill Hospital. 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 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.*
- 6.9.4 *Your pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within Nottingham & Nottinghamshire ICB which has been identified as deprived, based on its Index of Multiple Deprivation (IMD) decile. This direction ensures that there is coverage of pharmaceutical services in an area of deprivation, which is a priority for Nottingham & Nottinghamshire 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 direction would ensure provision of dispensing for these patients.”*
- 6.10 I note that in its representations on appeal, the Commissioner has expanded upon the reasoning for the direction and the assessment that was carried out. The Commissioner states that it considered *“Other pharmacies in the Sutton-in-Ashfield area ... as part of this process. However, the assessment takes into account the geographical location of pharmacies within the agreed locality, the proximity to an urgent care centre and the proximity to a deprived MSOA and in this instance FFV66 was selected to ensure equitable access for patients and likely users of the service.”*
- 6.11 I note the Commissioner’s comments when responding to the appeal that *“While other pharmacies were considered, the ICB is mindful of fairness in the application of directions and seeks to avoid disproportionately impacting the same contractors. On this occasion, FFV66 was identified as the most appropriate pharmacy to secure service provision and maintain equity across providers.”* I can only agree with this approach if the initial assessment of the need for pharmaceutical provision in terms of securing access to services to patients is sufficiently coherent and robust. For the reasons set-out below, I do not consider this to be the case.
- 6.12 I note that in response to the direction, the Appellant states *“PCT Healthcare Limited has proved that FFV66, compared to other nearby pharmacies, is not located in a 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.”* I am of the view that the Appellant’s supporting information 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 in relation to being in an area of deprivation.

- 6.13 I acknowledge the Appellant's comments about the proximity of their pharmacy to Kings Mill Hospital, as well as the information provided about other pharmacies in the area — some of which are also close to the hospital. While distance is an important consideration, it is only one of several factors the Commissioner should evaluate when deciding which pharmacy to direct to open. In this case, the Commissioner has not clearly explained why the Appellant's pharmacy, in particular, was chosen for this direction.
- 6.14 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 Sutton-in-Ashfield area. I note that this matter has not been expanded upon by the Commissioner.
- 6.15 Further, I note that the Appellant states "*there are three Urgent Treatment Centres within Sutton-in-Ashfield, our pharmacy FFV66 is not located in the proximity of all three.*" I note that the Commissioner does not provide a comment on this in their response to the appeal.
- 6.16 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.
- 6.17 However, I am of the view that the explanation of the Commissioner's assessment in its representations on this appeal, in particular the rationale unsupported by the evidence, does not provide me with coherent and 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.
- 6.18 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.
- 6.19 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, 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 25 December 2025 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