

17 November 2025

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

FILE REF: **SHA/26702**

Tel: 020 3928 2000
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COMMISSIONER: **Nottingham and Nottinghamshire ICB**
("the Commissioner")

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

PREMISES: **40 Rosemary Street**
Mansfield
NG18 1QL

**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 (FEL83)
East Midlands Primary Care Team on behalf of Nottingham and Nottinghamshire ICB

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

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

DIRECTION OF ADDITIONAL CORE OPENING HOURS

1 Introduction

- 1.1 Relying on Paragraph 25 of Schedule 4, the Commissioner has requested that the Appellant open from 10am to 12noon on Boxing Day 26 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 10am to 12noon on 26 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 Mansfield on Boxing Day 26 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:
 - (a) "proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the Scottish health

service, the Northern Ireland health service or the armed forces of the Crown,

- (b) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a dental practitioner in pursuance of—
 - (i) his functions in the health service, the Scottish health service or the Northern Ireland health service (other than functions exercised in pursuance of the provision of services mentioned in paragraph (c)), or
 - (ii) his functions in the armed forces of the Crown,
- (c) listed drugs and medicines and listed appliances which are ordered for those persons by a dental practitioner in pursuance of the provision of primary dental services or equivalent services in the Scottish health service or the Northern Ireland health service,
- (d) such drugs and medicines and such listed appliances as may be determined by the Secretary of State for the purposes of this paragraph and which are ordered for those persons by a prescribed description of person in accordance with such conditions, if any, as may be prescribed, in pursuance of functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown, and
- (e) such other services as may be prescribed.”

2.3 In light of the fact no pharmacies will be open on Boxing Day 26 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 Boxing Day 26 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 Mansfield or are visiting the area. Whilst GP practices will be closed on Boxing Day 26 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 believe that, as a minimum, the services for which there will be a need on Boxing Day are as follows.

2.5.1 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.

- 2.5.2 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.
- 2.5.3 The NHS pharmacy contraception advanced service, particularly as it is being expanded to include the provision of emergency contraception from October 2025.
- 2.6 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 Boxing Day 26 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.
- 2.7 We have consulted with Community Pharmacy Nottinghamshire representatives and made them aware of our intentions to issue this direction, and the rationale behind the proposal. Community Pharmacy Nottinghamshire are in support of the need to ensure adequate pharmaceutical provision on Boxing Day 26 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.
- 2.8 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 13 June 2025 to the email address we have on file for your pharmacy, pharmacy.fel83@nhs.net.
- 2.9 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.
- 2.10 Your core opening hours on **Boxing Day 26 December 2025** are therefore: **10:00-12:00**
- 2.11 The reasons for directing the above pharmacy to open are:
- 2.11.1 There is a need to provide pharmaceutical services in Mansfield where there is currently no provision on Boxing Day 26 December 2025.
- 2.11.2 There has been no voluntary offer of pharmacy provision in the Mansfield to meet the needs of people living in the area on Boxing Day 26 December 2025.
- 2.11.3 Your pharmacy is located in proximity to an urgent treatment centre, Mansfield Community Hospital. This 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.

- 2.11.4 Your pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within NHS Nottingham and 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 NHS Nottingham and 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.
- 2.12 The level of remuneration for Boxing Day, will be £275.00 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.eastmidsparmacy@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.
- 2.13 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.
- 2.14 You have the right of appeal to the Secretary of State against our decision. Should you choose to appeal, then you should send in writing a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to: nhsr.appeals@nhs.net or Primary Care Appeals Case Manager, NHS Resolution, 8th Floor 10 South Colonnade, Canary Wharf, London, E14 4PU.
- 2.15 If you have any questions, please do not hesitate to contact me."

3 The Appeal

In a letter to NHS Resolution dated 29 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 26 December 2025 at 10:00 until 12:00, PCT Healthcare Limited writes to appeal to the Primary Care Appeals Unit.
- 3.2 PCT Healthcare Limited appealed this direction to NHS Nottingham and Nottinghamshire ICB within the initial 30-day appeal period, via email on 2 July 2025. (email attached)

- 3.3 No response was received to the written representations submitted by PCT Healthcare Limited and the next correspondence from East Midlands primary Care Team (EMPCT) was a full direction letter dated 31 July 2025.
- 3.4 Failure to consider the written representations submitted in time to england.eastmidspharmacy@nhs.net is contrary to Schedule 4 Paragraph 25(2)(b) NHS Pharmaceutical and LPS Regulations.
- 3.5 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).
- 3.6 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, FEL83 in the Mansfield area.
- 3.7 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 10:00 to 12:00 on 26 December 2025.
- 3.8 In particular, the letter received makes no reference to any specific results linking our pharmacy to any lack of service provision on 26 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.
- 3.9 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 FEL83.
- 3.10 In addition where are the minutes of the engagement with Community Pharmacy Nottingham and the ICB with reference to pharmaceutical provision on 26 December 2025.

Hospitals & Urgent treatment centres

- 3.11 PCT Healthcare Limited has reviewed pharmacies close to the A&E department in Mansfield located at King's Mill Hospital, Mansfield Road, Sutton-in-Ashfield NG17 4JL, where patients are advised to access healthcare on Bank Holidays when their GP Surgeries are closed.
- 3.12 With regards to our pharmacy location within Mansfield there are 9 community pharmacies located closer or equidistant to the A& E Department of King's Mill Hospital, NG17 4JL according to NHS.uk. [Find a pharmacy - NHS](#) (details below).

Name	Distance to A&E (miles)	Postcode
Hospital A&E	0	NG17 4JL
Peak Pharmacy	0.7	NG17 4PD
Peak Pharmacy	0.9	NG18 5JP
Orchard Pharmacy	1.2	NG18 5GG
Asda Pharmacy	1.3	NG17 2AH
Boots Pharmacy	1.4	NG17 1BN
Superdrug Pharmacy	1.4	NG17 1BP
Peak Pharmacy	1.5	NG17 1AT
FEL83 – Peak Pharmacy	1.5	NG19 1QL
Mansfield Delivery Chemist	1.5	NG19 1QB
Boots	1.5	NG18 1BE

- 3.13 Moving on to consider the section beginning:
- 3.14 *The reasons for directing the above pharmacy to open are:*” (located at the bottom of page 2 of the direction letter dated 31 July 2025 and the top of page 3.
- 3.15 PCT Healthcare Limited fails to see how this proposal letter gives sufficient evidence to meet the requirements of Schedule 4 paragraph (25)(6)(a) of the NHS Pharmaceutical and LPS Regulations NHS England, that our pharmacy FEL83 is required to open on Boxing Day 2025 rather than any of the other pharmacies within Mansfield.

Deprivation details for pharmacies in Mansfield.

- 3.16 PCT Healthcare Limited has completed a review of the pharmacies located close to the King’s Mill Hospital, A&E department located at 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. English indices of deprivation 2019: Postcode Lookup [English indices of deprivation 2019: Postcode Lookup](#) .
- 3.18 The shaded pharmacies [sic] of which there are six in column H of the table, are all in LSOA areas with a lower overall Index of Multiple Deprivation Decile (IMD) [sic] than our pharmacy FEL83, all of these pharmacies are closer or equidistant to the Mansfield A&E Department than our pharmacy.
- 3.19 Additionally, considering column J, the Health and Disability Rank there are 5 pharmacies which are located in areas with a similar Health and Disability Ranking compared to our pharmacy located at 40 Rosemary Street, Mansfield (FEL83), all of these pharmacies are closer or equidistant to the A&E department in Mansfield than our pharmacy.

A	B	C	D	E	F	G	H	I	J
Pharmacy name	Distance to hospital	Postcode	Postcode status	LSOA code	LSOA Name	Index of multiple deprivation	Index of multiple deprivation decile	Health and disability rank	Health and disability decile
Hospital A&E	0	NG17 4JL	Live	E01027985	Ashfield 004E E01027985	9497	3	4057	2
Peak Pharmacy	0.7	NG17 4PD	Live	E01027984	Ashfield 002D E01027984	20227	7	13236	5
Peak Pharmacy	0.9	NG18 5JP	Live	E01028248	Mansfield 010F E01028248	2774	3	5310	2
Orchard Pharmacy	1.2	NG18 5GG	Live	E01028268	Mansfield 008D E01028268	2691	1	5326	2
Asda Pharmacy	1.3	NG17 2AH	Live	E01027965	Ashfield 005B E01027965	1331	1	470	1
Boots Pharmacy	1.4	NG17 1BN	Live	E01027965	Ashefield 005B E01027965	1331	1	470	1
Superdrug Pharmacy	1.4	NG17 1BP	Live	E01027968	Ashfield 005C E01027968	1855	1	1593	1
Peak Pharmacy	1.5	NG17 1AT	Live	E01027976	Ashfield 005E E01027976	3121	1	1333	1
FEL83 – Peak Pharmacy	1.5	NG19 1QL	Live	E01028284	Mansfield 008F E01028284	4231	2	3116	1
Mansfield Delivery Chemist	1.5	NG19 1QB	Live	E01028284	Mansfield 008F E01028284	4231	2	3116	1
Boots	1.5	NG18 1BE	Live	E01028268	Manfield 008D E01028268	2691	1	5326	2

3.20 PCT Healthcare Limited [sic] has proved that FEL83, compared to other nearby pharmacies, is not located in a more deprived area according to Indices of Multiple Deprivation (IMD) as provided from the Ministry of Housing Communities & Local Government – English indices of deprivation.

- 3.21 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 26 December 2025, as opposed to another pharmacy in the Mansfield area.”

The Appellant included a copy of the covering email from the Commissioner dated 13 June 2025 which stated:

- 3.22 “Good afternoon,
- 3.23 Following the publication of the rota for 24/25 and 25/26 in conjunction with the ICB and LPC. We are proposing to direct your pharmacy to open on Boxing Day 2025 to provide pharmaceutical services to the local population.
- 3.24 This will be for 2 hours only and full details are on the letter provided.
- 3.25 The rate of commission for this service is £275 per hour for a maximum of 2 hours and can be claimed via Pharmoutcomes, up to 28 days after the directed day.
- 3.26 Should you not claim within this time period, assurance of the opening will be sought, and you will have up to 45 days from the directed day in which to make a final claim.”

The Appellant included a copy of the letter from the Commissioner dated 13 June 2024 [sic] which stated:

- 3.27 “Re: Proposal to direct the above-named pharmacy to open on Boxing Day 26th December 2025
- 3.28 The pharmacy’s current core opening hours are
- 3.29 Monday - Friday 09:00-13:00, 14:00-18:00
- 3.30 The total opening hours (core & supplementary) are:
- 3.31 Monday - Friday 09:00-13:30, 14:00-18:00
- 3.32 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 Mansfield on Boxing Day 26th 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:
- (a) “proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown,

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

(i) his functions in the health service, the Scottish health service or the Northern Ireland health service (other than functions exercised in pursuance of the provision of services mentioned in paragraph (c)), or

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

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

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

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

3.33 In light of the fact no pharmacies will be open on Boxing Day 26th December 2025, NHS Nottingham and Nottinghamshire Integrated Care Board (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.

3.34 NHS Nottingham and Nottinghamshire Integrated Care Board (ICB) has therefore considered what arrangements need to be put in place on Boxing Day 26th 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 the Mansfield area or are visiting the area. Whilst GP practices will be closed on Boxing Day 26th 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.

3.35 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).

3.36 We believe that, as a minimum, the services for which there will be a need on Boxing Day are as follows.

3.36.1 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.

3.36.2 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.

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

3.37 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 Boxing Day 26th 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.

3.38 Following an initial assessment by our team, your pharmacy has been identified as meeting the needs of people in the Mansfield area for the following reasons:

3.38.1 There is a need to provide pharmaceutical services in the NG18 area where there is currently no provision on Boxing Day 26th December 2025.

3.38.2 Your pharmacy is located in proximity to an urgent treatment centre, Mansfield Community 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 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.

3.38.3 Your pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within Nottingham and Nottinghamshire 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 Insert ICB Name 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.

3.39 We are carrying out an assessment as to whether to issue a direction pursuant to paragraph 25(1) of Schedule 4 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 requiring you to provide pharmaceutical services on the following date and time:

3.40 Boxing Day 26 December 2025

3.41 10:00 – 12:00

- 3.42 Please note that we have consulted with Community Pharmacy Nottinghamshire representatives and made them aware of our intentions to propose this direction, and the rationale behind the proposal. Community Pharmacy Nottinghamshire are in support of the need to ensure adequate pharmaceutical provision on Boxing Day 26th December 2025 and are willing to provide guidance to contractors on this proposed direction. The contact email address of Community Pharmacy Nottinghamshire should you wish to contact them is NickHunter@CPNotts.org.
- 3.43 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 13 July 2025.
- 3.44 If you have any questions, please do not hesitate to contact me.”

The Appellant also included a copy of its representations to the Commissioner dated 2 July 2025 which stated:

- 3.45 “Further to the proposal to direct email as sent to FEL83 on 25/6/25. (as attached for information)
- 3.46 Re: Proposal to Direct in Mansfield area on 26-12-25 (FEL83)
- 3.47 Further to a Proposal to direct of core opening hours received in an email on 25/6/25, please accept the following representations from PCT Healthcare Limited.
- 3.48 As per the proposal letter:
- “If you wish to make written representations to assist us in our assessment as to whether ... to issue a direction and/or about the proposed direction, they should be ... england.eastmidspharmacy@nhs.net within 30 days of the date of this letter i.e by 05 ...”*
- 3.49 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.
- 3.50 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, FEL83 in the Mansfield area.
- 3.51 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 on 26 December 2025.

- 3.52 In particular, the letter received make [sic] no reference to any specific results linking our pharmacy to any lack of service provision on 26 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.
- 3.53 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 on 26 December 2025, as opposed to another pharmacy in the Mansfield area”.

4 Representations

In a letter to NHS Resolution dated 30 September 2025 the Commissioner stated:

- 4.1 “Thank you for your letter dated 1 September 2025 notifying us that Peak Pharmacy (FEL83) has appealed against NHS Nottingham and Nottinghamshire Integrated Care Boards (ICB) decision to direct their pharmacy (FEL83) to open on Boxing Day 26 December 2025.
- 4.2 We note that Peak Pharmacy (FEL83) 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, FEL83 in the Mansfield 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 10:00 to 12:00 on 26 December 2025. In particular, the letter received makes no reference to any specific results linking our pharmacy to any lack of service provision on 26 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 (EMPCT) 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;

“(6) The NHSCB must notify P of any direction issued or any other action taken under subparagraph(3), and where it sets new days on which or times at which P is to provide pharmaceutical services at pharmacy premises, it must include with the notification a statement of –

(a) the reasons for the change and

(b) P’s right of appeal under paragraph (7).”

4.6 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.

4.7 NHS Nottingham and Nottinghamshire ICB have not been notified of any pharmacies that will be open in the Mansfield area on Boxing Day 26 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 person’s who are in England of;

(a) “proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown,

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

*(i) his functions in the health service, the Scottish health service or the Northern Ireland health service (other than functions exercised in pursuance of the provision of services mentioned in paragraph (c)),
or*

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

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

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

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

4.8 In light of the fact no pharmacies will be open on Boxing Day 26 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.

- 4.9 NHS Nottingham and Nottinghamshire ICB has considered what arrangements need to be put in place on Boxing Day 26 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 Friday that is not a public holiday, there will still be a need for pharmaceutical services by people who live within Mansfield and surrounding areas or are visiting during the festive period. Whilst GP practices will be closed on Boxing Day 26 December 2025, other providers of NHS services will be open such as the out of hours services and A&E departments.
- 4.10 We believe that, as a minimum, the services for which there will be a need on Boxing Day 26 December 2025 are as follows.
- 4.10.1 *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.*
- 4.10.2 *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.*
- 4.10.3 *The NHS pharmacy contraception advanced service, particularly as it is being expanded to include the provision of emergency contraception from October 2025.*
- 4.11 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 Boxing Day 26 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.
- 4.12 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.
- 4.13 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 (FEL83) has been determined to meet the needs of the Mansfield population for the following reasons:
- 4.13.1 *There is a need to provide pharmaceutical services in Mansfield where there is currently no provision on Boxing Day 26 December 2025.*

- 4.13.2 *There has been no voluntary offer of pharmacy provision in the Mansfield [sic] to meet the needs of people living in the area on Boxing Day 26 December 2025.*
- 4.13.3 *Your pharmacy is located in proximity to an urgent treatment centre, Mansfield Community Hospital. This 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.*
- 4.13.4 *Your pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within NHS Nottingham and 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 NHS Nottingham and 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.*
- 4.13.5 *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 (FEL83) on Boxing Day 26 December 2025.*
- 4.14 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 (FEL83) was directed to open for the hours of 10:00-12:00 as the pharmacy satisfies the above assessment criteria, The pharmacy will receive £275.00 per hour for up to a maximum of 2 hours for opening as directed.
- 4.15 In response to:
- 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, FEL83 in the Mansfield area.*
- 4.16 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.

4.17 In response to:

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 10:00 to 12:00 on 26 December 2025.

In particular, the letter received makes no reference to any specific results linking our pharmacy to any lack of service provision on 26 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.

- 4.18 As previously stated, Peak Pharmacy (FEL83) was issued with a direction following NHS Nottingham and Nottinghamshire ICB’s diligent assessment process. Other pharmacies in the Mansfield 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 FEL83 was selected to ensure equitable access for patients and likely users of the service.
- 4.19 As set out in the direction letter, Peak Pharmacy (FEL83) 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.
- 4.20 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, FEL83 was identified as the most appropriate pharmacy to secure service provision and maintain equity across providers.
- 4.21 I would like to take this opportunity to respond to any further representations provided by Peak Pharmacy (FEL83) 40 Rosemary Street, Mansfield, Nottingham, NG18 1QL.”

5 Observations

In a letter to NHS Resolution dated 14 October 2025 the Appellant stated:

- 5.1 “Thank you for your email including the representations from NHS Nottingham and Nottinghamshire Integrated Care Boards (ICB) dated 30 September 2025.
- 5.2 PCT Healthcare Limited shall consider each of the points raised within the letter in turn.

- 5.3 On page 3, paragraph (4):
“The dispensing service for prescriptions ...”
- 5.4 Over the Christmas period 2025, PCT Healthcare Limited can confirm that the supplementary hours at FEL83 are not reduced, as such our patients shall be able to collect their dispensed prescriptions as no notification to change supplementary hours is submitted to NHS England.
- 5.5 On page 3, paragraph (4):
“The Pharmacy First service...”
- 5.6 What are the numbers of Pharmacy First provisions during previous Bank Holidays in Mansfield this detail was not included in the direction to FEL83?
- 5.7 On page 3, paragraph (4):
“The NHS pharmacy contraception advanced service...”
- 5.8 What are the numbers of emergency contraception (EHC) provisions during previous Bank Holidays in Mansfield this detail was not included in the direction to FEL83?
- 5.9 The EHC service within Nottinghamshire has operated via Nottinghamshire County Council for over a decade, the ICB would have access to this detail.
- 5.10 On page 4, paragraph (2):
“Your pharmacy is located in proximity...”
- 5.11 PCT Healthcare Limited sent appeal representations regarding these points in our appeal letter dated 29 August 2025.
- 5.12 On page 4, paragraph (2):
“Your pharmacy is also identified as being located within, ...”
- 5.13 PCT Healthcare Limited sent appeal representations regarding these points in our appeal letter dated 29 August 2025.
- 5.14 On page 4, paragraph (2):
“Consultations are held regularly with, ...”
- 5.15 PCT Healthcare Limited sent appeal representations regarding this point in our appeal letter dated 29 August 2025.
- 5.16 Where are the minutes of the meeting held between the LPC and the ICB on 21 May 2025?
- 5.17 How can a meeting be held between the LPC and the ICB identifying FEL83 as the directed pharmacy to open on 26 December 2025 in Mansfield prior to

the proposal to direct email which was sent to FEL83 via their NHS email on Friday 13th June 2025.

- 5.18 The date of 21 May 2025 is also prior to the ICB conducting their assessment which was advised to FEL83 as concluded in the full direction letter dated 31 July 2025.
- 5.19 PCT Healthcare Ltd sent representations on this proposal to direct letter to the ICB on 2 July 2025.
- 5.20 The full direction letter was received via NHS email to FEL83 on 1 August 2025.
- 5.21 PCT Healthcare Limited propose to NHS Resolution that the identification of FEL83 to open on 26 December 2025, in a meeting with the LPC on 21 May 2025 prior to the ICB following the full consultation process with FEL83 is contrary to the NHS Regulations that the ICB must follow 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.
- 5.22 The Regulations state:
- “(6) The NHSCB must notify P of any direction issued or any other action taken under subparagraph(3), and where it sets new days on which or times at which P is to provide pharmaceutical services at pharmacy premises, it must include with the notification a statement of –*
- (a) the reasons for the change and*
- (b) P’s right of appeal under paragraph (7).”*
- 5.23 On page 5, paragraph (2):
- 5.24 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 Mansfield locality, and particularly our pharmacy FEL83.
- 5.25 On page 5, paragraph (4):
- 5.26 Regarding this point we wish to respectfully refer NHS Resolution to our previous appeal letter and distances from NHS.uk from pharmacies in Mansfield to the Mansfield Urgent Care Centre based at King’s Mill Hospital 1.5 miles from our pharmacy.
- 5.27 On page 5, paragraph (5):
- 5.28 Regarding this point we wish to respectfully refer NHS Resolution to our previous appeal letter and the deprivation index details for the pharmacies within Mansfield from the Ministry of Housing Communities & Local Government – English indices of deprivation. [English indices of deprivation 2019: Postcode Lookup](#).
- 5.29 On page 5, paragraph (6):

- 5.30 PCT Healthcare Limited t/a Peak Pharmacy respectfully submit to NHS Resolution that it is not a robust enough argument to direct our pharmacy because:

“While other pharmacies were considered... to avoid disproportionately impacting the same contractors.”

especially without any evidence from the assessment being shared which specifically identifies our pharmacy FEL83 as being required to open on 26 December 2025 rather than any other Mansfield pharmacy.

- 5.31 As shown by the table below there are eleven pharmacies within Mansfield, there are not eleven exceptional Bank Holidays requiring pharmaceutical cover over the festive and New Year period in 2025-2026.

	Name	Postcode
1	Superdrug Pharmacy	NG18 1LE
2	Boots	NG18 1SU
3	Boots	NG18 1BE
4	Peak Pharmacy	NG18 1QL
5	Mansfield Delivery Chemist	NG18 1QB
6	Tesco Instore Pharmacy	NG19 7TS
7	Orchard Pharmacy	NG18 5GG
8	Newgate Pharmacy	NG18 2LG
9	Rosemary Street Pharmacy	NG19 6AB
10	Peak Pharmacy, Ladybrook Place	NG18 5JP
11	Asda Pharmacy	NG19 0HA

- 5.32 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 10:00 to 12:00 on 26 December 2025.
- 5.33 These representations make no reference to any specific results linking our pharmacy to any lack of service provision on 26 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.
- 5.34 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 FEL83?
- 5.35 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 has been chosen to open on 26 December 2025, as opposed to another pharmacy in Mansfield.”

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 Boxing Day 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.

6.5 Whilst I have not been provided with a copy of the consultation with the LPC, the Commissioner, in its direction letter and subsequent representations on the appeal, confirms that a consultation took place, although this is disputed by the Appellant. I note that the Commissioner wrote to the Appellant under cover of an email of 13 June 2025 which enclosed a letter dated 13 June 2024 [sic] advising that no pharmacies were currently opening on Boxing Day, 26 December 2025 and that they were proposing to direct the Appellant to open. The proposal to direct letter provided the Appellant with the opportunity to make representations within 30 days, which the Appellant did.

6.6 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 Boxing Day and that it is not sufficient to direct its pharmacy to open to "*avoid disproportionately impacting the same contractors*". The Appellant also requests copies of the minutes of the consultation with the LPC and remains of the view that the Commissioner has not carried out an assessment nor has it provided sufficient reasoning in line with the Regulations.

6.7 From the information before me, I am of the view that the Commissioner carried out some form of assessment and consulted on that assessment, in line with the Regulations.

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

- 6.9 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 Mansfield on Boxing Day 26 December 2025, and no pharmacies have volunteered to open on this day.”* The Commissioner goes on to state that *“as a minimum, the services for which there will be a need on Boxing Day are as follows:*
- *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.*
 - *The Pharmacy First service for the urgent supply of repeat medicines, referrals from NHS 111 for low acuity, minor illnesses or under one of the clinical pathways.*
 - *The NHS pharmacy contraception advanced service, particularly as it is being expanded to include the provision of emergency contraception from October 2025.”*
- 6.10 The Commissioner states *“We have consulted with Community Pharmacy Nottinghamshire representatives and made them aware of our intentions to issue this direction, and the rationale behind the proposal. Community Pharmacy Nottinghamshire are in support of the need to ensure adequate pharmaceutical provision on Boxing Day 26 December 2025 and are willing to provide guidance to contractors on this direction.”*
- 6.11 The direction letter concluded:
- *“There is a need to provide pharmaceutical services in Mansfield where there is currently no provision on Boxing Day 26 December 2025.*
 - *There has been no voluntary offer of pharmacy provision in the Mansfield to meet the needs of people living in the area on Boxing Day 26 December 2025.*
 - *Your pharmacy is located in proximity to an urgent treatment centre, Mansfield Community Hospital. This 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.*
 - *Your pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within NHS Nottingham and 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 NHS Nottingham and 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.”*

- 6.12 The Appellant describes the above as “generic” and that “*the letter makes no reference to any specific results linking our pharmacy to any lack of service provision on 26 December 2025*” and further that “*there is no actual details of any findings of a consultation or assessment ...*”
- 6.13 I note that in its representations the Commissioner has responded to the points raised in the letter of appeal from the Appellant and confirms that within the direction letter was an explanation as to why the pharmacy was issued with a direction.
- 6.14 The Commissioner confirms that other pharmacies in the area were “*considered as part of this process*” but that “*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 FEL83 was selected to ensure equitable access for patients and likely users of the service.*”
- 6.15 I note the Appellant’s comments in relation to its location within Mansfield and that there are other pharmacies which the Appellant states are “*located closer or equidistant to the A&E Department of Kings Hospital, NG17 4JL.*” Whilst I am of the view that distance is only one factor which the Commissioner should take into account when determining which pharmacies should open, given the Commissioner’s assertion that location was important, it does seem odd that the Commissioner should direct a pharmacy which is 1.5 miles away from the key sources of prescriptions.
- 6.16 Conversely, I further note the comments from the Commissioner that “*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*”. In my view a difficult balance needs to be taken based on where people live, if they have any specific needs and the location of prescriptions. 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. However, the Commissioner’s arguments are not coherent because on the one hand it recognises that “*those attending the urgent treatment centre would not have to travel long distances to collect essential medications*” but on the other hand it suggests there are benefits to the local health system of directing the Appellant to open. In my view, those same benefits might apply to any pharmacy but I have no information as to whether the Commissioner took other pharmacies into account.
- 6.17 In this regard, I note the Appellant’s request in relation to the Pharmacy First data for bank holidays and consider that this would have been helpful to provide, given the Commissioner’s reliance on it.
- 6.18 The Appellant has provided detailed information in respect of the index of multiple deprivation as well as the “Health and Disability Rank” for pharmacies that are either closer or equidistant to the A&E department in Mansfield than its pharmacy FEL83.
- 6.19 Further, I note the comments from the Commissioner that “*This direction ensures that there is coverage of pharmaceutical services in an area of*

deprivation, which is a priority for NHS Nottingham and Nottinghamshire ICB to improve access to healthcare for vulnerable groups and reduce health inequalities” and further that “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”.

- 6.20 Whilst I agree that the Appellant’s pharmacy is located in an area of deprivation, there are other pharmacies in areas of similar deprivation which are located closer to the source of prescriptions and therefore this would appear at odds with the Commissioner’s rationale for issuing the direction. Nor have I been provided with any information regarding vulnerable groups who may require heightened access to services. I am therefore, of the view that the Commissioner has relied on rationale which is not supported by the evidence.
- 6.21 The Commissioner states that as a minimum, on Boxing Day, there will be a need for:
- 6.21.1 *“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.”*
- 6.22 I note the Appellant has confirmed that *“Over the Christmas period ... can confirm that the supplementary hours at FEL83 are not reduced, as such our patients shall be able to collect their dispensed prescriptions as no notification to change supplementary hours is submitted to NHS England.”* Whilst acknowledging it was the Commissioner who raised this point originally, I do not consider this to be a relevant consideration of the appeal given that the day in question is 26 December 2025.
- 6.23 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. However, I am of the view that the explanation of the Commissioner’s assessment in its representations on this appeal, in particular the rationale which appears unsupported by the evidence, does not provide me with sufficient information to substantiate the view as to why the Appellant’s pharmacy will be best placed in terms of access and geography to meet the envisaged demand for services.
- 6.24 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.
- 6.25 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.
- 6.26 On the basis of the information available to me, and for 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 26 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**