

27 November 2026

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

FILE REF: **SHA/26703**

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

COMMISSIONER: **DERBY AND DERBYSHIRE ICB**
("the Commissioner")

PHARMACIST: **PCT HEALTHCARE LTD**
("the Appellant")

PREMISES: **PEAK PHARMACY (FAD98)**
540 SHEFFIELD ROAD
WHITTINGTON MOOR
CHESTERFIELD
S41 8LX

**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 (FAD98)
Derby and Derbyshire ICB

FILE REF: SHA/26703

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

COMMISSIONER: DERBY AND DERBYSHIRE ICB
("the Commissioner")

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

PHARMACIST: PCT HEALTHCARE LTD
("the Appellant")

PREMISES: PEAK PHARMACY (FAD98)
540 SHEFFIELD ROAD
WHITTINGTON MOOR
CHESTERFIELD
S41 8LX

**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 10:00 to 12:00 on Thursday 1 January 2026 (New Year's Day).
- 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 10:00 to 12:00 on Thursday 1 January 2026 (New Years Day), 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 Chesterfield, Derbyshire on New Years Day, 1st January 2026 and no pharmacies meeting our population health needs 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,

(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 services 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 that no pharmacies will be open on New Years Day 1st January 2026, NHS Derby & Derbyshire ICB is of the opinion that the needs of people in its area or other likely users of pharmacy premises for pharmaceutical services will not be met on this day.

2.4 NHS Derby & Derbyshire ICB has therefore considered what arrangements need to be put in place on New Years Day 1st January 2026 in order to discharge this duty. We are of the opinion that whilst demand for the full range of pharmaceutical services may be lower on this day compared to a day that is not a bank or public holiday, there will still be a need for pharmaceutical services by people who live within Chesterfield, Derbyshire or are visiting the area. Whilst GP practices will be closed on New Years Day 1st January 2026 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 New Years Day 1st January 2026 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 New Years Day 1st January 2026 and therefore at present the ICB is unable to discharge the duty as set out in section 126 of the NHS Act 2006.
- 2.7 We have consulted with Community Pharmacy Derbyshire representatives and made them aware of our intentions to issue this direction, and the rationale behind the proposal. Community Pharmacy Derbyshire are in support of the need to ensure adequate pharmaceutical provision on New Years Day 1st January 2026 and are willing to provide guidance to contractors on this direction. The contact email address of Community Pharmacy Derbyshire should you wish to contact them is info@cpderbyshire.org.uk
- 2.8 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 9th June 2025 to the email we have on file for your pharmacy; pharmacy.fad98@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 New Years Day 1st January 2026 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 Chesterfield, Derby where there is currently no provision on New Years Day 1st January 2026.
- 2.11.2 There has been no voluntary offer of pharmacy provision in Chesterfield, Derby to meet the needs of people living in the area on New Years Day 1st January 2026.
- 2.11.3 Your pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within Derby and Derbyshire ICB which has been identified as deprived, based on its Index of Multiple Deprivation (IMD) decile. This direction ensures that there is coverage of pharmaceutical services in an area of deprivation, which is a priority for Derby and Derbyshire ICB to improve access to healthcare for vulnerable groups and reduce health inequalities. Areas of high deprivation are also likely to have more patients with long-term

conditions requiring management, and this direction would ensure more provision of dispensing for these patients.

- 2.12 The level of remuneration for New Years Day 1st January 2026, will be £350.00 per hour for a maximum of 2 hours. Please ensure that you submit a claim for opening through PharmOutcomes within 28 calendar days of the directed day. If this is not claimed within 28 calendar days, our team will issue a final reminder, and you will have a further 17 calendar days to submit a claim (within 45 calendar days of the directed day). Please note that claims submitted outside of this 45 calendar day deadline will not be paid. If you anticipate any difficulties in submitting the claim, please contact our team via England.eastmidspharmacy@nhs.net at your earliest convenience. If no claim is made, this will be investigated by NHS Derby & Derbyshire 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
- 2.15 Primary Care Appeals Case Manager
NHS Resolution
8th Floor 10 South Colonnade
Canary Wharf
London
E14 4PU
- 2.16 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 1 January 2026 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 3 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.eastmidpharmacy@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 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, FAD98 in the Chesterfield 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 1 January 2026.
- 3.8 In particular, the letter received makes no reference to any specific results linking our pharmacy to any lack of service provision on 1 January 2026. Furthermore, there is no actual details of the findings of a consultation or assessment, 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 FAD98.
- 3.10 In addition, where are the minutes of the engagement with Community Pharmacy Nottingham and the ICB with reference to pharmaceutical provision on 1 January 2026.

Hospitals & Urgent Treatment Centres

- 3.11 PCT Healthcare has reviewed pharmacies close to the A&E department in Chesterfield located at Chesterfield Royal Hospital, Chesterfield Road, Chesterfield, S44 5BL 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 Chesterfield there are 12 community pharmacies located closer to the A&E department of Chesterfield Royal Hospital S44 5BL according to NHS.uk.

Name	Distance from A&E (miles)	Postcode
Chesterfield A&E	0	S44 5BL

Calow Pharmacy	0.3	S44 5AH
Hasland Pharmacy	1.2	S41 0LJ
Peak Pharmacy	1.4	S43 1PJ
Brimington Pharmacy	1.5	S43 1JG
Boots	1.5	S40 1PB
Tesco Instore Pharmacy	1.6	S41 7JB
Dents of Chesterfield	1.6	S40 1LE
Peak Pharmacy	1.6	S43 3ST
Peak Pharmacy	1.6	S40 1LG
Peak Pharmacy	1.8	S40 4AA
Peak @ Wheatbridge	1.9	S40 2AB
Cohens Chemist	2.1	S40 2HP
FAD98 – Peak Pharmacy	2.2	S41 8LX

3.13 The Urgent Treatment Centre operated by DHU Healthcare CIC is located at Ashgate Medical Practice, Ashgate Road, Chesterfield, S40 4AA where patients are also advised to access healthcare on Bank Holidays when their GP surgeries are closed.

3.14 With regards to our pharmacy location within Chesterfield there are 12 community pharmacies located close to the Urgent Treatment Centre within the Ashgate Medical Practice, S40 4AA according to NHS.uk.

Name	Distance from A&E (miles)	Postcode
Urgent Treatment Centre	0	S40 4AA
Peak Pharmacy	0	S40 4AA
Peak Pharmacy	0.2	S40 1LG
Dents of Chesterfield	0.2	S40 1LE
Peak @ Wheatbridge	0.3	S40 2AB

Boots	0.4	S40 1PB
Peak Pharmacy	0.5	S40 1PJ
Tesco Instore Pharmacy	1.2	S41 7JB
Peak Pharmacy	1.2	S41 8QW
Peak Pharmacy	1.3	S40 3JX
Cohens Chemist	1.3	S40 2HP
Dents of Chesterfield	1.3	S41 8DU
Holme Hall Pharmacy	1.4	S40 4SL
FAD98 – Peak Pharmacy	1.5	S41 8LX

3.15 Moving on to consider the section beginning: “*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).

3.16 PCT Healthcare Limited fails to see how this proposal letter gives sufficient evidence to meet the requirements of Schedule 4 paragraph (25)(6)(a) for the NHS Pharmaceutical and LPS Regulations NHS England, that our pharmacy FAD98 is required to open on New Years Day 2026 rather than any of the other pharmacies within Chesterfield.

Deprivation details for pharmacies in Chesterfield

3.17 PCT Healthcare Limited has completed a review of the pharmacies located close to the Chesterfield Royal Hospital, Chesterfield Road, Chesterfield, S44 5BL, A&E department located at S44 5BL regarding the IMD for their postcodes.

3.18 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](#)

3.19 The shaded pharmacies [sic] of which there are three in Column G of the table, are all in LSOA areas with a lower or equivalent overall Index of Multiple Deprivation Decile (IMD) than our pharmacy FAD98, all of these pharmacies are closer to the Chesterfield A&E Department than our pharmacy.

3.20 Additionally, considering Column I, the Health and Disability Rank there are 5 pharmacies which are located in areas with a lower Health and Disability Ranking compared to our pharmacy located at 540 Sheffield Road, Chesterfield (FAD98), all of these pharmacies are closer to the A&E department in Chesterfield than our pharmacy.

A	B	C	D	E	F	G	H	I
Name	Distance from A&E (miles)	Postcode	LSOA code	LSOA name	Index of Multiple Deprivation Rank	Index of Multiple Deprivation Decile	Health and Disability Rank	Health and Disability Decile
Chesterfield A&E	0	S44 5BL	E01019585	Chesterfield 012G E01019585	16626	6	8461	3
Calow Pharmacy	0.3	S44 5AH	E01019821	North East Derbyshire 007B E01019821	19825	7	9813	3
Hasland Pharmacy	1.2	S41 0LJ	E01019547	Chesterfield 012C E0109547	6382	2	1546	1
Peak Pharmacy	1.4	S40 1PJ	E01033367	Chesterfield 010F E01019547	16005	5	10410	4
Brimington Pharmacy	1.5	S43 1JG	E01019531	Chesterfield 003D E01033367	7188	3	3474	2
Boots	1.5	S40 1PB	E01033387	Chesterfield 010F E01019547	16005	5	10410	4
Tesco Instore	1.6	S41 1JB	E01019569	Chesterfield 007B E01019568	7791	3	2736	1
Dents of Chesterfield	1.6	S40 1LE	E01019538	Chesterfield 010A E0109538	12760	4	4328	2
Peak Pharmacy	1.6	S43 3ST	E01019552	Chesterfield 006D E01019552	8968	3	2097	1
Peak Pharmacy	1.6	S40 1LG	E01019538	Chesterfield 010A E0109538	12760	4	4328	2
Peak Pharmacy	1.8	S40 4AA	E01019538	Chesterfield 010A E0109538	12760	4	4328	2
Peak @ Wheatbridge	1.9	S40 2AB	E01019556	Chesterfield 010C E0109556	4574	2	1042	1
Cohens Chemist	2.1	S40 2HP	E01019578	Chesterfield 013D E0109578	499	1	160	1
FAD98 – Peak Pharmacy	2.2	S41 8LX	E01019542	Chesterfield 004B E01019542	3827	2	858	1

- 3.21 PCT Healthcare Limited has proved that FAD98, compared to other nearby pharmacies, is not located in a more deprived area according to Indices [sic] of Multiple Deprivation (IMD) or the Health and Disability decile as provided from the Ministry of Housing Communities & Local Government – English indices of deprivation.
- 3.22 In conclusion, our pharmacy has received this direction, however for the reasons discussed above we do not feel it has been made clear as to why our pharmacy, in particular, has been chosen to open on 1 January 2026, as opposed to another pharmacy in the Chesterfield area.”

Email from the Appellant to the Commissioner dated 3 July 2025

- 3.23 “Further to the proposal to direct email as sent to FAD98 on 1-1-26 (as attached for information).
- 3.24 RE: Proposal to Direct in Chesterfield area on 1-1-26 (FAD98)
- 3.25 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.
- 3.26 As per the proposal letter:
- 3.26.1 *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.eastmidsparmacy@nhs.net within 30 days of the date of this letter, i.e. by 05/07/2025.*
- 3.27 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.
- 3.28 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, FAD98 in the Chesterfield area.
- 3.29 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 1-1-26.
- 3.30 In particular, the letter received make no reference to any specific results linking our pharmacy to any lack of service provision on 1-1-2026. 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.

- 3.31 The letter includes reference to Christmas Eve which is 1 week before 1-1-26.
- 3.32 In addition, the letter also mentions Christmas Day on the final page of the proposal letter with regards to a discussion with CP Derbyshire this is irrelevant.
- 3.33 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 1-1-26, as opposed to another pharmacy in the Chesterfield area.”

4 Representations

In a letter to NHS Resolution dated 7 October 2025 the Commissioner stated:

- 4.1 “Thank you for your letter dated 08 September 2025 notifying us that PCT Healthcare Ltd t/a Peak Pharmacy (FAD98) has appealed against NHS Derby & Derbyshire Integrated Care Boards (ICBs) decision to direct their pharmacy (FAD98) to open on New Years Day 1 January 2025 [sic].

- 4.2 We note that Peak Pharmacy (FAD98) are appealing this direction for the reasons listed below, followed by NHS Derby and Derbyshire ICB responses:-

PCT Healthcare Limited appealed this direction to NHS Nottingham and Nottinghamshire ICB within the initial 30-day appeal period, via email on 3 July 2025. (email attached).

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.

- 4.3 NHS Derby and Derbyshire Response:-
- 4.4 NHS Derby and Derbyshire ICB acknowledges that the direction letter was issued prior to the appeal being considered at the Governance meeting due to an administrative oversight. This was a procedural error only and had no bearing on the substantive decision to issue the direction.
- 4.5 The matter was formally reviewed at the subsequent Governance meeting, where the decision to uphold and proceed with the direction was confirmed. This decision was reached after full consideration of the appeal, during which it was noted that Peak Pharmacy had not provided any substantive or mitigating reasons as to why they could not be directed to open.
- 4.6 The ICB remains fully satisfied that the direction is lawful, necessary, and proportionate to ensure the provision of pharmaceutical services on New Year’s Day 2026, in line with its statutory duties.

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). 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, FAD98 in the Chesterfield area.

4.7 NHS Derby and Derbyshire Response:-

4.8 NHS Derby and Derbyshire ICB undertook a comprehensive assessment of local need and accessibility to determine the most appropriate location for directed opening. This included a detailed review of the Index of Multiple Deprivation (IMD) deciles at Middle Layer Super Output Area (MSOA) level, which identified the pharmacy's catchment area as one of high deprivation. Ensuring pharmaceutical service coverage in areas of deprivation is a core strategic priority for the ICB, reflecting its duty to improve access for vulnerable populations and reduce health inequalities in line with national policy and statutory obligations.

4.9 The ICB also considered the pharmacy's locality in relation to Urgent Treatment Centres (UTCs), recognising that patients accessing urgent care services are more likely to require timely dispensing of medicines. Directing a pharmacy in close proximity to a UTC ensures that patients can access essential medicines quickly and safely, without the need to travel long distances — a consideration that is particularly critical on public holidays, when public transport options are limited and other NHS services may be operating at reduced capacity.

4.10 The full rationale for the direction was clearly set out in the formal direction letter issued to the pharmacy by email on 31 July 2025, which explained the basis on which the ICB determined that the direction was necessary, proportionate, and in the best interests of patient access.

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 1 January 2026.

In particular, the letter received makes no reference to any specific results linking our pharmacy to any lack of service provision on 1 January 2026. Furthermore, there is no actual details of the findings of a consultation or assessment, and therefore no reasons behind the direction which is contrary to paragraph 25(1) and 25(6) of Schedule 4.

4.11 NHS Derby and Derbyshire Response:-

4.12 NHS Derby and Derbyshire ICB is firmly of the view that the needs of people within its area, and other likely users of pharmaceutical services, would not be met on New Year's Day 2026 in the absence of a directed opening. To discharge its statutory duty under Section 126 of the NHS Act 2006, and following a diligent and structured assessment process, the ICB put in place arrangements to secure appropriate pharmaceutical service cover, albeit at a reduced level proportionate to expected demand.

- 4.13 As part of this process, all pharmacies in the Chesterfield area were considered, considering their geographical distribution, proximity to areas of deprivation (MSOA), and their ability to provide equitable access for patients and likely service users. Based on this assessment, Peak Pharmacy (FAD98) was identified as the most suitable location and was subsequently informed that it had been selected for direction to ensure continuity of access for patients.
- 4.14 As outlined in the direction letter issued on 31 July 2025, Peak Pharmacy (FAD98) is located within or near a deprived MSOA, meaning the direction directly supports the ICB's strategic responsibility to improve access for vulnerable populations and reduce health inequalities. Areas of higher deprivation typically have greater prevalence of long-term conditions, requiring regular access to medicines. Ensuring provision in such areas is essential to maintaining continuity of care and supporting population health outcomes. While other pharmacies were reviewed, the ICB is mindful of the need for fairness and proportionality in the application of directions and seeks to avoid placing repeated or disproportionate burdens on the same contractors. On this occasion, Peak Pharmacy (FAD98) was objectively identified as the most appropriate contractor to secure pharmaceutical service provision, based on location, accessibility, and equity considerations.

PCT Healthcare Limited has reviewed pharmacies close to the A&E department in Chesterfield located at Chesterfield Royal Hospital, Chesterfield Road, Chesterfield S44 5BL where patients are advised to access healthcare on Bank Holidays when their GP Surgeries are closed.

With regards to our pharmacy location within Chesterfield there are 12 community pharmacies located closer to the A& E Department of Chesterfield Royal Hospital S44 5BL according to NHS.uk.

Name	Distance from A&E (miles)	Postcode
<i>Chesterfield A&E</i>	<i>0</i>	<i>S44 5BL</i>
<i>Calow Pharmacy</i>	<i>0.3</i>	<i>S44 5AH</i>
<i>Hasland Pharmacy</i>	<i>1.2</i>	<i>S41 0LJ</i>
<i>Peak Pharmacy</i>	<i>1.4</i>	<i>S43 1PJ</i>
<i>Brimington Pharmacy</i>	<i>1.5</i>	<i>S43 1JG</i>
<i>Boots</i>	<i>1.5</i>	<i>S40 1PB</i>
<i>Tesco Instore Pharmacy</i>	<i>1.6</i>	<i>S41 7JB</i>
<i>Dents of Chesterfield</i>	<i>1.6</i>	<i>S40 1LE</i>
<i>Peak Pharmacy</i>	<i>1.6</i>	<i>S43 3ST</i>

<i>Peak Pharmacy</i>	<i>1.6</i>	<i>S40 1LG</i>
<i>Peak Pharmacy</i>	<i>1.8</i>	<i>S40 4AA</i>
<i>Peak @ Wheatbridge</i>	<i>1.9</i>	<i>S40 2AB</i>
<i>Cohens Chemist</i>	<i>2.1</i>	<i>S40 2HP</i>
<i>FAD98 – Peak Pharmacy</i>	<i>2.2</i>	<i>S41 8LX</i>

The Urgent Treatment Centre operated by DHU Healthcare CIC is located at Ashgate Medical Practice, Ashgate Road, Chesterfield S40 4AA where patients are also advised to access healthcare on Bank Holidays when their GP Surgeries are closed.

With regards to our pharmacy location within Chesterfield there are 12 community pharmacies located closer to the Urgent Treatment Centre within the Ashgate Medical Practice, S40 4AA according to NHS.uk. Name

Name	Distance from A&E (miles)	Postcode
<i>Urgent Treatment Centre</i>	<i>0</i>	<i>S40 4AA</i>
<i>Peak Pharmacy</i>	<i>0</i>	<i>S40 4AA</i>
<i>Peak Pharmacy</i>	<i>0.2</i>	<i>S40 1LG</i>
<i>Dents of Chesterfield</i>	<i>0.2</i>	<i>S40 1LE</i>
<i>Peak @ Wheatbridge</i>	<i>0.3</i>	<i>S40 2AB</i>
<i>Boots</i>	<i>0.4</i>	<i>S40 1PB</i>
<i>Peak Pharmacy</i>	<i>0.5</i>	<i>S40 1PJ</i>
<i>Tesco Instore Pharmacy</i>	<i>1.2</i>	<i>S41 7JB</i>
<i>Peak Pharmacy</i>	<i>1.2</i>	<i>S41 8QW</i>
<i>Peak Pharmacy</i>	<i>1.3</i>	<i>S40 3JX</i>
<i>Cohens Chemist</i>	<i>1.3</i>	<i>S40 2HP</i>
<i>Dents of Chesterfield</i>	<i>1.3</i>	<i>S41 8DU</i>

<i>Holme Hall Pharmacy</i>	<i>1.4</i>	<i>S40 4SL</i>
<i>FAD98 – Peak Pharmacy</i>	<i>1.5</i>	<i>S41 8LX</i>

4.15 NHS Derby and Derbyshire Response:-

4.16 The list provided by Peak Pharmacy (FAD98) of other pharmacies located in proximity to the Urgent Treatment Centre and hospital includes some premises situated within the same MSOA; however, these were not originally selected for direction for valid and objective reasons. Specifically, some of the pharmacies identified by Peak Pharmacy were ranked lower on the ICB's MSOA prioritisation list, which reflects a structured assessment of deprivation levels, accessibility, and strategic service coverage.

4.17 In addition, several of the pharmacies listed by Peak Pharmacy had already been directed to open on other bank holidays during the festive period. In applying directions, the ICB is mindful of equity and proportionality, ensuring that the responsibility for directed opening is distributed fairly and does not place an undue burden on the same contractors. On this basis, Peak Pharmacy (FAD98) remained the most appropriate pharmacy to direct for New Year's Day 2026.

Moving on to consider the section beginning:

"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.

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 FAD98 is required to open on New Years Day 2026 rather than any of the other pharmacies within Chesterfield.

4.18 NHS Derby and Derbyshire Response:-

4.19 NHS Derby and Derbyshire ICB undertook a targeted assessment of local need and accessibility, which included a detailed review of the Index of Multiple Deprivation (IMD) deciles at MSOA level. This assessment was used to ensure that pharmaceutical service provision was secured within an area of deprivation, in line with the ICB's statutory responsibility to improve access for vulnerable populations and reduce health inequalities. Addressing inequalities in access to essential healthcare services remains a core strategic priority for the ICB.

4.20 In addition to deprivation data, the ICB carefully considered the geographical location of pharmacies in relation to local Urgent Treatment Centres (UTCs). Locating pharmaceutical provision in close proximity to UTCs provides a clear patient benefit, enabling individuals to collect essential medicines without having to travel significant distances, particularly important on public holidays

when public transport services are limited and alternative NHS provision may be operating at reduced capacity.

- 4.21 The rationale for issuing the direction was clearly set out in the formal direction letter issued to the pharmacy by email on 31 July 2025, which explained the evidence base and decision-making process underpinning the ICB's determination.

PCT Healthcare Limited has completed a review of the pharmacies located close to the Chesterfield Royal Hospital, Chesterfield Road, Chesterfield S44 5BL, A&E department located at S44 5BL regarding the IMD for their postcodes.

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](#)

The shaded pharmacies of which there are three in column G of the table, are all in LSOA areas with a lower or equivalent overall Index of Multiple Deprivation Decile (IMD) than our pharmacy FAD98, all of these pharmacies are closer to the Chesterfield A&E Department than our pharmacy.

Additionally, considering column I, the Health and Disability Rank there are 5 pharmacies which are located in areas with a lower Health and Disability Ranking compared to our pharmacy located at 540 Sheffield Road, Chesterfield (FAD98), all of these pharmacies are closer to the A&E department in Chesterfield than our pharmacy.

[quoted table at 3.20]

PCT Healthcare Limited [sic] has proved that FAD98, compared to other nearby pharmacies, is not located in a more deprived area according to Indices [sic] of Multiple Deprivation (IMD) or the Health and Disability decile as provided from the Ministry of Housing Communities & Local Government – English indices of deprivation.

- 4.22 NHS Derby and Derbyshire Response:-
- 4.23 NHS Derby and Derbyshire ICB acknowledges that a number of pharmacies identified are of a similar ranking within the IMD/MSOA prioritisation framework, and some are located within the same deprived area as Peak Pharmacy (FAD98). These pharmacies were actively considered as part of the direction assessment process.
- 4.24 However, as outlined in the ICB's response to point (4), several of these pharmacies had already been directed to open on other bank holidays during the festive period. In applying directions, the ICB adopts a fair, balanced, and proportionate approach, ensuring that the requirement to provide cover is distributed equitably and that no single contractor is disproportionately impacted by multiple directions within the same festive period.

- 4.25 On this basis, and considering both need and equity considerations, the ICB determined that directing Peak Pharmacy (FAD98) on New Year's Day 2026 was appropriate and justified.
- 4.26 NHS Derby and Derbyshire Integrated Care Board ("the ICB") submits the following formal representations in response to the appeal lodged by PCT Healthcare Ltd T/A Peak Pharmacy (FAD98) in relation to the direction issued requiring the pharmacy to open on New Year's Day 2026. These representations set out the statutory basis, evidence of need, and rationale underpinning the ICB's decision, and demonstrate why the direction was lawful, necessary, proportionate, and in the best interests of patients and the local population.
- 4.27 NHS Derby and Derbyshire ICB, under Schedule 4, Part 3, paragraph 25(2)(b) of the NHS (Pharmaceutical Services and Local Pharmaceutical Services) Regulations 2013 (As amended) can direct a pharmacy to open where a need is determined.
- 4.28 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)."*
- 4.29 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.
- 4.30 NHS Derby and Derbyshire ICB did not receive notification of any pharmacies intending to open in the Chesterfield area on New Year's Day 2026, and no contractors volunteered to provide pharmaceutical services on this day. Considering the complete absence of voluntary provision, the ICB determined that it was necessary to issue a direction to discharge its statutory duty under Section 126 of the NHS Act 2006 (Arrangements for pharmaceutical services).
- 4.31 Under this duty, NHS England (now delegated to ICBs) is required to plan for the proper and sufficient provision of drugs, medicines, listed appliances, and other prescribed services to persons in England. Where voluntary opening is not secured, the ICB must take appropriate action to ensure adequate service provision, which in this case necessitated the issuing of a direction. ICBs must plan for the provision, to person's who are in England of:
- (a) "proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown,*

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

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

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

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

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

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

- 4.32 NHS Derby and Derbyshire ICB is of the clear view that, although overall demand for the full range of pharmaceutical services may be lower on New Year's Day than on a typical weekday, there remains a demonstrable and ongoing need for pharmaceutical provision for both residents and visitors to the Chesterfield area during the festive period.
- 4.33 While GP practices will be closed on New Year's Day, other NHS services—including GP out-of-hours services and Accident & Emergency departments—will continue to operate. These services generate a continued requirement for pharmaceutical support to ensure patients can access essential medicines promptly, avoid unnecessary delays in treatment, and reduce pressure on urgent and emergency care pathways.
- 4.34 At a minimum, the ICB anticipates a clear need for the following services on New Year's Day:
- 4.34.1 Dispensing services for prescriptions issued by NHS service providers open on the day, as well as for prescriptions issued previously that patients have been unable to collect earlier (e.g., due to work commitments or reduced supplementary hours over the Christmas period).
- 4.34.2 Pharmacy First services, including the urgent supply of repeat medicines and the management of low-acuity conditions via NHS 111 referrals or established clinical pathways.
- 4.34.3 The NHS Pharmacy Contraception Advanced Service, particularly considering the service expansion from October 2025, which includes the provision of emergency contraception.

- 4.35 Ensuring the availability of these core services on New Year's Day is essential to maintaining safe, equitable, and uninterrupted access to pharmaceutical care for the population of Chesterfield and its surrounding communities.
- 4.36 On 21 March 2025, NHS Derby and Derbyshire ICB issued a communication to all pharmacy contractors requesting that they complete a Microsoft Form to inform the ICB of their intended opening hours over the 2025–26 bank holiday periods. Contractors were asked to return the completed forms to england.eastmidsparmacy@nhs.net by 18 April 2025. This process is a standard and transparent mechanism used to identify any pharmacies willing to volunteer to open on bank holidays, enabling the ICB to plan provision and avoid the need for formal directions where possible.
- 4.37 Despite this opportunity, no contractors in the Chesterfield area indicated a willingness to open on New Year's Day 2026. In the absence of voluntary provision, the ICB is required under Section 126 of the NHS Act 2006, delegated to ICBs by NHS England, to plan for the provision of pharmaceutical services to ensure proper and sufficient access for the local population. Where voluntary opening is not secured, this responsibility is met through the issuing of directions.
- 4.38 Following this, the ICB undertook an initial assessment to identify the most appropriate pharmacy to direct. This assessment was informed by the Pharmaceutical Needs Assessment (PNA), which was used to establish local need and assess geographical coverage, accessibility, and deprivation levels. Based on this structured analysis, Peak Pharmacy (FAD98) was identified as the most appropriate pharmacy to meet the needs of people in the Chesterfield area for the following reasons:
- 4.38.1 There is a need to provide pharmaceutical services in Chesterfield, where there is currently no provision on New Year's Day 2026.
- 4.38.2 The pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within NHS Derby and Derbyshire ICB, which has been identified as deprived, based on its Index of Multiple Deprivation (IMD) decile. This proposal ensures that there is coverage of pharmaceutical services in an area of deprivation, which is a priority for NHS Derby and Derbyshire ICB to improve access to healthcare for vulnerable groups and reduce health inequalities. Areas of high deprivation are also likely to have more patients with long-term conditions requiring management, and this proposed direction would ensure the provision of dispensing for these patients.
- 4.38.3 Sufficient availability of public transport and car parking accessibility.
- 4.38.4 Consultations are held regularly with the Local Pharmaceutical Committee for pharmaceutical provision of upcoming public or bank holidays. On this occasion, the proposed pharmacies for direction on New Year's Day 2025 were sent via email to LPCs on 16 May 2025, where no rationale was provided to oppose the direction of Peak Pharmacy (FAD98) on New Year's Day 2026.

- 4.39 As a result of this assessment, it has been determined that direction is required to provide adequate pharmaceutical. Peak Pharmacy (FAD98) was directed to open for the hours of 10:00-12:00 as the pharmacy satisfies the above assessment criteria. The pharmacy will receive £350.00 per hour for up to a maximum of 2 hours for opening as directed.
- 4.40 Following the assessment of the bank holiday opening returns from the Derby and Derbyshire Health and Wellbeing Board (HWB) area and engagement with the Local Pharmaceutical Committee (LPC), a proposal to direct letter was issued to PCT Healthcare Ltd T/A Peak Pharmacy (FAD98) on 9 June 2025.
- 4.41 Representations in response to this proposal were received on 3 July 2025. These were carefully considered by the ICB. However, the decision was made to proceed with the issue of the direction, as no assurances were provided that alternative pharmacies in the area would be open during the period covered by the direction, and the contractor's written representations did not provide any substantive or mitigating reasons as to why they should not comply with the direction.
- 4.42 For the reasons set out above, NHS Derby and Derbyshire ICB has lawfully and appropriately issued the direction, which is both necessary to discharge its statutory duties and fully compliant with the relevant regulations. The ICB, therefore, respectfully requests that the appeal be dismissed.
- 4.43 NHS Derby and Derbyshire ICB remains willing to respond to any further representations submitted by PCT Healthcare Ltd T/A Peak Pharmacy, 540 Sheffield Road, Whittington Moor, Chesterfield, Derbyshire, S41 8LX."

5 Observations

In a letter to NHS Resolution dated 20 October 2025 the Appellant stated:

- 5.1 "Thank you for your email including the representations from East Midlands Primary Care Team on behalf of NHS Derby and Derbyshire ICB dated 7 October 2025.
- 5.2 PCT Healthcare Limited shall consider each of the points raised within the letter in turn.
- 5.3 On page 2, Regarding the ICBs response to PCT Healthcare Limited paragraph 2.
- 5.4 We wish to reiterate the evidence submitted in our appeal letter dated 29 August 2025 to NHS Resolution, there are several pharmacies which are located in LSOA areas with a lower or equivalent overall Index of Multiple Deprivation Decile (IMD) than our pharmacy FAD98, all of these pharmacies are closer to the Chesterfield A&E Department than our pharmacy.
- 5.5 Additionally, considering, the Health and Disability Rank there are 5 pharmacies which are located in areas with a lower Health and Disability Ranking compared to our pharmacy located at 540 Sheffield Road, Chesterfield (FAD98), all of these pharmacies are closer to the A&E department in Chesterfield than our pharmacy.

- 5.6 We wish to reiterate the evidence submitted in our appeal letter dated 29 August 2025 to NHS Resolution, there are several pharmacies which are located in LSOA areas with a lower or equivalent overall Index of Multiple Deprivation Decile (IMD) than our pharmacy FAD98, all of these pharmacies are closer to the Chesterfield A&E Department than our pharmacy.[sic]
- 5.7 As advised in our appeal letter dated 29 August 2025, with regards to our pharmacy location within Chesterfield there are 12 pharmacies located to the Urgent Treatment Centre within the Ashgate Medical Practice, S40 4AA according to NHS.uk.
- 5.8 PCT Healthcare Limited reviewed pharmacies close to the A&E department in Chesterfield located at Chesterfield Royal Hospital, Chesterfield Road, Chesterfield, S44 5BL where patients are advised to access healthcare on Bank Holidays when their GP Surgeries are closed.
- 5.9 With regards to our pharmacy location within Chesterfield there are 12 community pharmacies located closer to the A& E Department of Chesterfield Royal Hospital S44 5BL according to NHS.uk. Find a pharmacy - NHS (details below)
- 5.10 On page 2, *“undertook a comprehensive assessment...”*
- 5.11 With regards to the “comprehensive assessment” mentioned within this paragraph where are the results of this assessment, why have they not been shared with contractors in the Chesterfield locality, and in particular our pharmacy FAD98?
- 5.12 On page 5, regarding the paragraph “In addition, several of the pharmacies listed by Peak Pharmacy...”
- 5.13 PCT Healthcare Limited t/a Peak Pharmacy respectfully submit to NHS Resolution that it is not a robust enough argument to direct our pharmacy based on the fact that:
- 5.14 *“other pharmacies have also been directed for other days over the festive period...”*
- 5.15 Especially without any evidence from the assessment being shared which specifically identifies our pharmacy FAD98 as being required to open on 1 January 2026. As shown by the table below there are 24 pharmacies within Chesterfield, there are not 24 exceptional Bank Holidays requiring pharmaceutical cover over the festive and New Year period in 2025-2026.

Name	Distance from A&E (miles)	Postcode
Urgent Treatment Centre	0	S40 4AA
Peak Pharmacy	0	S40 4AA

Peak Pharmacy	0.2	S40 1LG
Dents of Chesterfield	0.2	S40 1LE
Peak @ Wheatbridge	0.3	S40 2AB
Boots	0.4	S40 1PB
Peak Pharmacy	0.5	S40 1PJ
Tesco Instore Pharmacy	1.2	S41 7JB
Peak Pharmacy	1.2	S41 8QW
Peak Pharmacy	1.3	S40 3JX
Cohens Chemist	1.3	S40 2HP
Dents of Chesterfield	1.3	S41 8DU
Holme Hall Pharmacy	1.4	S40 4SL
FAD98 – Peak Pharmacy	1.5	S41 8LX
Hasland Pharmacy	1.8	S41 0LJ
Calow Pharmacy	2.1	S44 5AH
Peak Pharmacy	2.2	S41 9JT
Brimington Pharmacy	2.2	S43 1JG
Peak Pharmacy	2.6	S42 6PX
Peak Pharmacy	2.9	S43 2AN
Peak Pharmacy	3.0	S43 3ST
Peak Pharmacy	3.1	S42 5ED
Tupton Pharmacy	3.6	S42 6BH
Peak Pharmacy	4.1	S43 3UX
Peak Pharmacy	4.5	S42 5LQ

5.16 On Page 7,

5.17 “However, as outlined in the ICB response to point (4),”

- 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:
- 5.19 *“other pharmacies have also been directed for other days over the festive period...”*
- 5.20 Especially without any evidence from the assessment being shared which specifically identifies our pharmacy FAD98 as being required to open on 1 January 2026.
- 5.21 As shown by the table below there are 24 pharmacies within Chesterfield, there are not 24 exceptional Bank Holidays requiring pharmaceutical cover over the festive and New Year period in 2025-2026.
- 5.22 On page 8,
- 5.23 *“Pharmacy First service...”*
- 5.24 What are the numbers of Pharmacy First provisions during a previous Bank Holiday in Chesterfield this detail was not included in the direction to FAD98?
- 5.25 On page 8,
- 5.26 *“NHS pharmacy contraception advanced service...”*
- 5.27 What are the numbers of emergency contraception (EHC) provisions during previous Bank Holidays in Chesterfield this detail was not included in the direction to FAD98? The EHC service within Derbyshire has operated via Derbyshire County Council for over a decade, the ICB would have access to this detail.
- 5.28 On page 9,
- 5.29 *“Consultations are held regularly...”*
- 5.30 How can a consultation take place between Community Pharmacy Derbyshire and the ICB on 16 May 2025 before the proposal to direct letter to our pharmacy FAD98 which is dated 9 June 2025 which includes under the Regulations the opportunity for the contractor to submit written representations?
- 5.31 Additionally, the full direction letter was received by FAD98 on 31 July 2025 containing the right of appeal. In particular, these representations make no reference to any specific results linking our pharmacy to any lack of service provision on 1 January 2026.
- 5.32 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.
- 5.33 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 FAD98? 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 1 January 2026, as opposed to another pharmacy in Chesterfield.”

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 New Year's 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 on 9 June 2025 advising that no pharmacies were currently opening on New Year's Day, 1 January 2026, 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. I note that, by the Commissioner's own admission, the "*direction letter was issued prior to the appeal [the Appellant's representations] being considered at the Governance meeting due to an administrative oversight*". I note that the Commissioner confirms that the representations received from the Appellant were considered at the subsequent Governance meeting.

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

6.9 In the direction letter, the Commissioner states that the reasons for directing the Appellant to open are that “[the Commissioner] *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.*” The Commissioner goes on to state that “*as a minimum, the services for which there will be a need on New Years Day 1st January 2026 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 NHS111 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 Derbyshire representatives and made them aware of our intentions to issue this direction, and the rationale behind the proposal. Community Pharmacy Derbyshire are in support of the need to ensure adequate pharmaceutical provision on New Years Day 1st January 2026 and are willing to provide guidance to contractors on this direction.*”

6.11 The direction letter concluded:

6.11.1 “*There is a need to provide pharmaceutical services in Chesterfield, Derby where there is currently no provision on New Years Day 1st January 2026.*

There has been no voluntary offer of pharmacy provision in Chesterfield, Derby to meet the needs of the people living in the area on New Years Day 1st January 2026.

Your pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within Derby and Derbyshire ICB which has been identified as deprived, based on its Index of Multiple Deprivation (IMD) decile. This direction ensures that there is coverage of pharmaceutical services in an area of deprivation, which is a priority for Derby and Derbyshire ICB to improve access to healthcare for vulnerable groups and reduce health inequalities. Areas of high deprivation are also likely to have more patients with long-term

conditions requiring management, and this direction would ensure provision of dispensing for these patients.”

- 6.12 The Appellant describes the above as “generic” and that “*the letter make no reference to any specific results linking our pharmacy to any lack of service provision on 1 January 2026*” and further that “*there is no actual details of the 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 “*all pharmacies in the Chesterfield area were considered, considering their geographical distribution, proximity to areas of deprivation (MSOA), and their ability to provide equitable access for patients and likely service users... Peak Pharmacy (FAD98) was identified as the most suitable location subsequently informed that it had been selected for direction to ensure continuity of access for patients*”.
- 6.15 I note the Appellant’s comments in relation to its location within Chesterfield and that there are other pharmacies which the Appellant states are “*located closer to the A&E Department of Chesterfield Royal Hospital, S44 5BL*”. 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 to open which is 2.2 miles away from a key source of prescription.
- 6.16 I further note the comments from the Commissioner that it “*also considered the pharmacy’s location in relation to Urgent Treatment Centres (UTCs), recognising that patients accessing urgent care services are more likely to require timely dispensing of medicines*”. However, there are closer pharmacies to the Urgent Treatment Centre at Ashgate Medical Practice, than the Appellant which is 1.5 miles away. 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. With this in mind, the Commissioner’s arguments are not coherent because on the one hand it recognises that “*directing a pharmacy in close proximity to a UTC ensures that patients can access essential medicines quickly and safely, without the need to travel long distances – a consideration that is particularly crucial on public holidays, when public transport options are limited and other NHS services may be operating at reduced capacity*” but on the other hand it suggests there are benefits to the local health system, mainly via the Pharmacy First service, of directing the Appellant to open. In my view, those benefits might apply to any pharmacy but I have no information as to whether the Commissioner took other pharmacies into account.
- 6.17 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 Chesterfield than its pharmacy FAD98.

- 6.18 Further, I note the comments from the Commissioner that the direction *“ensures that there is coverage of pharmaceutical services in an area of deprivation, which is a priority for Derby and Derbyshire ICB to improve access to healthcare for vulnerable groups and reduce health inequalities”*.
- 6.19 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 to be 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.
- 6.20 The Commissioner states that as a minimum, on New Year’s Day, there will be a need for:
- 6.20.1 *“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.”*
- 6.21 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. I appreciate the Commissioner’s efforts to ensure that directions are fairly issued to relieve the burden on same contractors but if the Commissioner’s assessment is not sufficiently robust or is incoherent then I must determine the appeal accordingly.
- 6.22 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.
- 6.23 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.
- 6.24 On the basis of the information available to me, I am not satisfied that the Commissioner has demonstrated that the needs of people in its area or other likely users of the pharmacy for pharmaceutical services will not be met on New Year’s Day, 1 January 2026, 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