

2 December 2025

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

FILE REF: **SHA/ 26774**

COMMISSIONER: **SUSSEX ICB**
("the Commissioner")

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

PHARMACIST: **A E Pharma Ltd t/a Grand Pharmacy**
(FC448)
("the Appellant")

PREMISES: **11 GRAND HOTEL BUILDINGS**
COMPTON STREET
EASTBOURNE
EAST SUSSEX
BN21 4EJ

**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:
A E Pharma Ltd t/a Grand Pharmacy (FC448)
Sussex ICB

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

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

FILE REF: SHA/ 26774

COMMISSIONER: SUSSEX ICB
("the Commissioner")

PHARMACIST: A E Pharma Ltd t/a Grand Pharmacy
(FC448)
("the Appellant")

PREMISES: 11 GRAND HOTEL BUILDINGS
COMPTON STREET
EASTBOURNE
EAST SUSSEX
BN21 4EJ

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

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

DIRECTION OF ADDITIONAL CORE OPENING HOURS

1 Introduction

- 1.1 Relying on Paragraph 25 of Schedule 4, the Commissioner has requested that the Appellant open from 2pm to 5pm on 25 December 2025 (Christmas 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.

2 The Direction

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

- 2.1 **"Direction to open on Christmas Day Thursday 25th December 2025 at 14:00-17:00."**
- 2.2 We wrote to you on 23rd September 2025 regarding the proposal for provision of pharmaceutical services on Christmas Day Thursday 25th December 2025 at 14:00-17:00.
- 2.3 It is noted that no representation has been received in response to the letter.
- 2.4 **FC448 – A E Pharma Ltd t/a Grand Pharmacy 11 Grand Hotel Buildings, Compton Street, Eastbourne, East Sussex, BN21 4EJ**
- 2.5 is directed to open on **Christmas Day Thursday 25th December 2025** from **14:00-17:00** (a total of three hours) in accordance with Schedule 4 Paragraphs

24 and 25 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended.

- 2.6 A payment of £420.00 per hour will be made on submission via the online claim form.
- 2.7 Please submit the claim within 28 days of fulfilling your rota duties.
- 2.8 Thank you for making appropriate arrangements to deliver the required service.
- 2.9 The reason for the direction is set out in Appendix A.
- 2.10 We have consulted the Local Pharmaceutical Committee in drawing up the arrangements for Bank Holiday cover – including the voluntary enhanced service and directions where they are needed.
- 2.11 Pharmacy opening hours will be shared with other NHS organisations such as NHS 111, hospitals and GPs for signposting patients. However, it is really important that the information is correct on the DoS and NHS website. **Please can you ensure that you have updated the [NHS Profile Manager](#)** so that NHS 111 can direct patients to your service and also so that anyone using the NHS Website will know you are open.
- 2.12 Please can you provide confirmation to frimleyicb.southeastcommunitypharmacy@nhs.net, that you have received the direction and will open the pharmacy accordingly on Thursday 25th December 2025 between 14:00-17:00.
- 2.13 You have a right of appeal to the Secretary of State against the issuing of this direction. Should you choose to appeal then you should send a concise and reasoned statement of the grounds for your appeal within 30 days of receiving this notice to nhsr.appeals@nhs.net or:
- 2.14 Primary Care Appeals NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU.
- 2.15 **Appendix A: Reason for the direction**
- 2.16 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. We have asked pharmacies in the area whether they are intending to open and have also offered payment to open as part of an enhanced service. However, we have not been notified of any pharmacies that will be open in Eastbourne on Christmas Day Thursday 25th December 2025.
- 2.17 Sussex ICB is obliged to ensure adequate pharmaceutical services are available for the population. This includes arrangements on the aforementioned days when pharmacy contractors are not required to open. (Section 126 of the NHS Act 2006 (Arrangements for pharmaceutical services)).
- 2.18 As part of the process for assessing the need for pharmacy cover in Eastbourne on Christmas Day Thursday 25th December 2025, we have considered reasonable geographical coverage and travel times as well as population

density. The opening times being directed are intended to allow the maximum number of people who need to access pharmaceutical services to be able to do so.

- 2.19 Whilst demand for the full range of pharmaceutical services may be lower on this day compared to a Thursday that is not a bank holiday, there is still a need for availability of pharmaceutical services for people who live within the area of the Sussex ICB or who are visiting the area for the bank holiday period.
- 2.20 Pharmacy services are a vital part of the health service which complement and support other services that are available on bank holidays such as NHS 111, GP Out of Hours Service, A&E and Ambulance services. Your pharmacy will be available to deliver services not only to your immediate community but as there will be limited resources on the day, also to patients from further afield.
- 2.21 In addition to the factors associated with assessment of overall need for a service, when reviewing the need to direct a particular pharmacy we have considered; the pharmacy location, any voluntary opening by other pharmacy contractors, distances from other available services, access including road links, nearby parking, frequency of any previous direction notices and the other pharmacies available in the area excluding Distance Selling pharmacies. We ensure that pharmacies are selected for direction in a fair way that means that all pharmacies in a given area take their turn.”

3 The Appeal

In an email to NHS Resolution dated 10 November 2025 the Appellant appealed against the Commissioner’s decision. The grounds of appeal are:

- 3.1 “Further to your email [sic] on 30/10/25, directing us to open the pharmacy on Christmas day from 2pm-5pm, I am appealing against this decision.
- 3.2 The reasons for my appeal are:
 - 3.2.1 I do not have adequate number of staff to cover that day and there is no way I can find staff for Christmas day in such short notice.
 - 3.2.2 I have already in place family arrangements and will not be able to change my plans.
 - 3.2.3 I live in Brighton and currently I am working 5-6 days a week so I look forward to taking some days off from commuting and work on those bank holidays!
- 3.3 Out of all the points I mentioned above, lack of staff and the fact that I do not have any staff to cover that day, is the main reason for my appeal against opening the pharmacy on Christmas day. I do hope that you understand.
- 3.4 Apologies that I have not replied and appealed earlier. I have overlooked and missed your [sic] initial email back in September.”

4 Representations

In a letter to NHS Resolution dated 13 November 2025 the Commissioner stated:

- 4.1 “Thank for your letter dated 11th November 2025 informing us of the appeal by A E Pharma Ltd.
- 4.2 We wish to make the following comments on the appeal.
- 4.3 The direction to open on Christmas day was issued to Grand Pharmacy with the maximum notice period as possible in accordance with the NHS Pharmaceutical Regulations 2013.
- 4.4 **Timeline of issuing the direction:**

23.09.2025	Grand Pharmacy were sent an intention to direct letter via NHS mail. Email delivery receipt was received on 23rd September 2025.
23.10.2025	Deadline for Grand Pharmacy to provide any representations to the ICB. No representations were received.
30.10.2025	Grand Pharmacy were sent the direction letter via NHS mail. Email delivery receipt was received on 30th October 2025.

4.5 **Paragraphs 25(1) and (2) of Schedule 4**

- 4.6 Paragraphs 25(1) and (2) require that before any direction is made, an assessment must be undertaken and that, before the assessment is concluded, the pharmacist providing services from the premises must be given notice of the proposed changes and given 30 days to make written representations about the proposed changes.
- 4.7 An assessment of the need for pharmaceutical services that will meet the needs of the people in the area of Eastbourne or other likely users of the pharmacy specifically on Christmas Day has been undertaken. In addition to the information provided in the appendix to the direction letter, previous activity data, collated from the direction for Christmas Day 2022 / 2023 / 2024 was considered.
- 4.8 The assessment for the Eastbourne area found that on previous Christmas Day's in 2022 / 2023 / 2024, patients in Eastbourne accessed the pharmacy in the afternoon with prescriptions. Patients accessed the Pharmacy First service and received advice within the pharmacy that was open.
- 4.9 Activity in Eastbourne on Christmas Day afternoon (2022 / 2023 / 2024)

Total items dispensed	Approx Ave Number of People attending the pharmacy	Number of patients who accessed the Pharmacy First service	Number of patients given advice	Number of patients signposted to other services
81	96	17	23	8

- 4.10 Sussex ICB has consulted the relevant LPC in drawing up the Bank Holiday directions and agreeing the enhanced services agreements for the provision of pharmaceutical services over the Christmas and New Year Period's across the Southeast.
- 4.11 The Appellant was given the opportunity to make representation before the direction letter was issued.
- 4.12 The Appellant did not submit a representation to the intention to direct letter.
- 4.13 Staffing levels of the pharmacy are not beyond control of the Appellant as the arrangements and the number of the pharmacists employed either as relief pharmacists or as locums procured to cover are a commercial consideration and a matter for the Appellant to ensure that there is sufficient cover.
- 4.14 Directions are issued on a rotational basis within the town; Christmas Day 2025 is Grand Pharmacy's turn to be directed to open.
- 4.15 The Appellant has not disputed in their appeal that there wouldn't be a need for pharmaceutical services of the people in the Eastbourne area on the directed date.
- 4.16 **Schedule 4 paragraph (25)(6)(a)**
- 4.17 Schedule 4 paragraph (25)(6)(a) of the NHS Pharmaceutical and LPS regulations state that "the reasons for the change" must be included with the notification.
- 4.18 The direction letter clearly states the reasons for the direction and is based on the results of the assessment mentioned above and in the direction letter. This followed the 30-day consultation period and took into account the written representations received from the Appellant. It was concluded that the needs of the local population and likely users of pharmaceutical services in Eastbourne would not be met on Christmas Day 25th December 2025."

5 Observations

No observations were made by the Appellant in response to the representations from the Commissioner.

6 Assessment

6.1 I have considered paragraph 25 of Schedule 4 (Determination of pharmacy premises core opening hours instigated by NHS England), which reads as follows:

1. *Where it appears to NHS England, after consultation with or having considered the matter at the request of the Local Pharmaceutical Committee for the area in which the premises are situated, that the days on which or times at which pharmacy premises are or are to be open for the provision of pharmaceutical services will not, or no longer, meet the needs of—*
 - (a) *people in its area; or*
 - (b) *other likely users of the pharmacy premises,**for the pharmaceutical services available at or from those premises, it must carry out an assessment as to whether to issue a direction requiring the NHS pharmacist (P) whose premises they are to provide pharmaceutical services at or from the pharmacy premises at set times and on set days (which may include Christmas Day, Good Friday and bank holidays).*
2. *Before concluding the assessment under sub-paragraph (1) NHS England must—*
 - (a) *give notice to P of any proposed changes to the days on which or times at which the pharmacy premises are to be open; and*
 - (b) *allow P 30 days within which to make written representations to NHS England about the proposed changes.*
3. *When it determines the outcome of its assessment, NHS England must—*
 - (a) *issue a direction (which replaces any existing direction) which meets the requirements of sub-paragraphs (4) and (5);*
 - (b) *confirm any existing direction in respect of the times at which P must provide pharmaceutical services at or from the pharmacy premises, provided that the existing direction (whether issued under regulation 65, this Part, the 2012 Regulations, the 2005 Regulations or the 1992 Regulations) would meet the requirements of sub-paragraphs (4) and (5); or*
 - (c) *either—*
 - (i) *revoke, without replacing it, any existing direction in respect of the times at which P must provide pharmaceutical services at or from the pharmacy premises (whether issued under regulation 65, this Part, the 2012 Regulations, the 2005 Regulations or the 1992 Regulations), or*
 - (ii) *in a case where there is no existing direction, issue no direction,**in which case, by virtue of whichever of paragraph 23(1)(a) or (b) applies, the pharmacy will need to be open for 40 hours each week or for at least 100 hours each week.*
4. *Where NHS England issues a direction under sub-paragraph (3) in respect of pharmacy premises that are to be required to be open—*

- (a) *for more than 40 hours each week, it must set out in that direction—*
 - (i) *the total number of hours each week for which P must provide pharmaceutical services at or from the pharmacy, and*
 - (ii) *as regards the additional opening hours, the days on which and the times at which P is required to provide those services during those hours,**but it must not set out in that direction the days on which or times at which P is to provide pharmaceutical services during hours which are not additional opening hours; or*
 - (b) *for less than 40 hours each week, it shall set out in that direction the days on which and times at which pharmaceutical services are to be provided at or from the pharmacy premises.*
- 5. *NHS England must not issue a direction under sub-paragraph (3) that has the effect simply of requiring pharmacy premises to be open for 40 hours each week on set days and at set times (that is, the direction must have the effect of requiring pharmacy premises to be open for either more or less than 40 hours each week).*
- 6. *NHS England must notify P of any direction issued or any other action taken under sub-paragraph (3), and where it sets new days on which or times at which P is to provide pharmaceutical services at or from pharmacy premises, it must include with the notification a statement of—*
 - (a) *the reasons for the change; and*
 - (b) *P's right of appeal under paragraph (7).*
- 7. *P may, within 30 days of receiving notification under sub-paragraph (6), appeal in writing to the Secretary of State against any direction issued or any other action taken under sub-paragraph (3) which sets new days on which or times at which P is to provide pharmaceutical services.*
- 8. *The Secretary of State may, when determining an appeal, either confirm the action taken by NHS England or take any action that NHS England could have taken under paragraph (3).*
- 9. *The Secretary of State shall notify P of the determination and shall in every case include with the notification a statement of the reasons for the determination.*
- 10. *If the days on which or times at which P is to provide pharmaceutical services at or from pharmacy premises have been changed in accordance with this paragraph, P must introduce the changes—*
 - (a) *if P has not appealed under sub-paragraph (7), not later than 8 weeks after the date on which P receives notification under sub-paragraph (6); or*
 - (b) *if P has appealed under sub-paragraph (7), not later than 8 weeks after the date on which P receives notification under sub-paragraph (9).*

11. *This paragraph does not apply where regulation 65(5) to (7) applies.*

6.2 I am mindful that paragraph 23(12) of Schedule 4 states:

For the purposes of calculating the number of hours that a pharmacy premises are open during a week that includes Christmas Day, Good Friday, Easter Sunday or a bank holiday, it is to be deemed that the pharmacy premises were open on that day at the times at which they would ordinarily have been open on that day of the week.

6.3 I am of the view that the pharmacy would normally be closed on Christmas Day 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 Although 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, which I note is not disputed by the Appellant. I further note that in its representations, the Commissioner states that it sent an email to the Appellant on 23 September 2025 outlining its intention to direct the pharmacy to open, with a deadline of 23 October 2025 to submit representations. Whilst I have not been provided with a copy of this email, I note the Appellant does not dispute that it was sent and confirms in its appeal that it “overlooked” and “missed” the Commissioner’s email “in September”.

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

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

6.8 In Appendix A to the direction letter the Commissioner has provided reasoning as follows:

6.8.1 *“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. We have asked pharmacies in the area whether they are intending to open and have also offered payment to open as part of an enhanced service. However, we have not been notified of any pharmacies that will be open in Eastbourne on Christmas Day Thursday 25th December 2025.*

- 6.8.2 *Sussex ICB is obliged to ensure adequate pharmaceutical services are available for the population. This includes arrangements on the aforementioned days when pharmacy contractors are not required to open. (Section 126 of the NHS Act 2006 (Arrangements for pharmaceutical services)).*
- 6.8.3 *As part of the process for assessing the need for pharmacy cover in Eastbourne on Christmas Day Thursday 25th December 2025, we have considered reasonable geographical coverage and travel times as well as population density. The opening times being directed are intended to allow the maximum number of people who need to access pharmaceutical services to be able to do so.*
- 6.8.4 *Whilst demand for the full range of pharmaceutical services may be lower on this day compared to a Thursday that is not a bank holiday, there is still a need for availability of pharmaceutical services for people who live within the area of the Sussex ICB or who are visiting the area for the bank holiday period.*
- 6.8.5 *Pharmacy services are a vital part of the health service which complement and support other services that are available on bank holidays such as NHS 111, GP Out of Hours Service, A&E and Ambulance services. Your pharmacy will be available to deliver services not only to your immediate community but as there will be limited resources on the day, also to patients from further afield.*
- 6.8.6 *In addition to the factors associated with assessment of overall need for a service, when reviewing the need to direct a particular pharmacy we have considered; the pharmacy location, any voluntary opening by other pharmacy contractors, distances from other available services, access including road links, nearby parking, frequency of any previous direction notices and the other pharmacies available in the area excluding Distance Selling pharmacies. We ensure that pharmacies are selected for direction in a fair way that means that all pharmacies in a given area take their turn.”*
- 6.9 The Commissioner has provided further reasoning in its representations on the appeal, including to state:
- 6.9.1 *“An assessment of the need for pharmaceutical services that will meet the needs of the people in the area of Eastbourne or other likely users of the pharmacy specifically on Christmas Day has been undertaken. In addition to the information provided in the appendix to the direction letter, previous activity data, collated from the direction for Christmas Day 2022 / 2023 / 2024 was considered.*
- 6.9.2 *The assessment for the Eastbourne area found that on previous Christmas Day’s in 2022 / 2023 / 2024, patients in Eastbourne accessed the pharmacy in the afternoon with prescriptions. Patients accessed the Pharmacy First service and received advice within the pharmacy that was open.”*

- 6.10 I note that the Commissioner has produced figures for patients who accessed pharmaceutical services in Eastbourne on Christmas Day 2022, 2023 and 2024 which demonstrate a historical need in the area for this Bank Holiday. I further note that the Appellant has not disputed these figures. However, I have no information before me with regard to the location of any hospitals or other healthcare facilities in the area which might be generating prescriptions although I am mindful that pharmaceutical services are not limited to dispensing and patients may need services without a prescription.
- 6.11 The Commissioner indicates that when reviewing the need to direct a particular pharmacy it considers, amongst other things, the pharmacy location, distances from other available services, access including road links, and nearby parking. However, I have no information as to what makes the Appellant's location better than others and exactly how accessible it is. If distance were a factor in the decision to direct, I am unclear what distances the Commissioner considered and is referring to. If it relates to the distance to a hospital then this should be clearly explained. Likewise, I have no information as to the proximity of car parking.
- 6.12 The Appellant's grounds of appeal are based around the challenges of securing staff for the day in question. I also note the Appellant's comments regarding personal arrangements it has in place for Christmas Day.
- 6.13 In response, the Commissioner states that *"Staffing levels of the pharmacy are not beyond control of the Appellant as the arrangements and the number of the pharmacists employed either as relief pharmacists or as locums procured to cover are a commercial consideration and a matter for the Appellant to ensure that there is sufficient cover."*
- 6.14 Whilst I am sympathetic to the Appellant's comments, I note the Appellant has indicated that it will face difficulties in opening on Christmas Day but I do not consider that this is enough for me to conclude that the Appellant is actually unable to do so.
- 6.15 The Commissioner has also reviewed which pharmacies have opened on previous bank holidays and states that *"Directions are issued on a rotational basis within the town; Christmas Day 2025 is Grand Pharmacy's turn to be directed to open."* I am mindful that the Commissioner's assessment should not be reliant on which pharmacies have opened on previous bank holidays or whether it is on a fair share basis.
- 6.16 Whilst the activity data demonstrates that patients accessed pharmacies during previous bank holiday periods, and the direction states that *"reasonable geographical coverage and travel times as well as population density"* have been considered, there is a lack of information as to *"times"* and *"density"*. Even though I note that the Appellant has not sought to dispute the data provided, 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 25 December 2025 (Christmas Day) such that it is appropriate to issue a direction requiring the Appellant's pharmacy to open on the day and times indicated in the direction.

- 6.17 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.

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**