

OFFICIAL: SENSITIVE

22 January 2026

REF: SHA/26746

**APPEAL AGAINST LINCOLNSHIRE ICB DECISION
REGARDING A BREACH NOTICE AT ROWLANDS
PHARMACY (FA306), HAWTHORN ROAD,
SKEGNESS, LINCOLNSHIRE, PE25 3TD**

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

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

1 Outcome

- 1.1 Pursuant to paragraph 9(5)(a) of Schedule 3 to the Regulations I confirm the decision of the Commissioner to issue the Breach Notice.

A copy of this decision is being sent to:

L. Rowland & Co (Retail) Limited
East Midlands Primary Care Team on behalf of Lincolnshire ICB

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SKEGNESS, LINCOLNSHIRE, PE25 3TD**

1 The Breach Notice

A Breach Notice dated 26 September 2025 was sent to Rowlands Pharmacy ("the Appellant") in respect of Hawthorn Road, Skegness, Lincolnshire, PE25 3TD.

1.1 "Name of contractor: L Rowland & Co (Retail) Ltd Address of premises: Rowlands Pharmacy (FA306), Hawthorn Road, Skegness, Lincolnshire, PE25 3TD"

1.2 Date of inclusion in the pharmaceutical list for the area of Lincolnshire Health and Wellbeing Board: 06 August 2004

1.3 This is a breach notice issued under regulation 71 of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (the 2013 regulations).

1.4 Nature of the breach

1.5 In accordance with paragraph 23(1)(e), Schedule 4 of the 2013 regulations, if NHS England, or on appeal the Secretary of State, has directed that pharmaceutical services are to be provided at pharmacy premises for more than 40 hours each week, but only on set times and on set days as regards the additional opening hours, the contractor who is listed in respect of those pharmacy premises must ensure that pharmaceutical services are provided at the pharmacy premises:

1.5.1 i. for the total number of hours each week required by virtue of that direction, and

1.5.2 ii. as regards the additional opening hours for which the contractor is required to provide pharmaceutical services by virtue of that direction, at the days on which and times at which the contractor is required to provide pharmaceutical services during those additional opening hours, as set out in that direction subject to any variation in respect of a rest break in accordance with sub-paragraph (7)(bd), Schedule 4.

- 1.6 Since 1 April 2023, NHS England has delegated the commissioning of pharmaceutical services to integrated care boards (ICBs) and therefore such directions may issued to pharmacy contractors by an ICB. The five ICBs in the East Midlands have formed a Pharmaceutical Services Regulations Committee (PSRC) under section 65Z5 of the 2006 Act. By virtue of NHS England's Pharmacy Manual this Committee is responsible for making decisions required by the 2013 regulations. For the avoidance of doubt, this includes use of the fitness powers set out in the 2006 Act and the 2013 regulations. The PSRC is hosted by NHS Nottingham and Nottinghamshire ICB on behalf of the five ICBs.
- 1.7 The Directed Rota was created in conjunction with each individual East Midlands Integrated Care Board (ICB), Local Pharmaceutical Committee (LPC) and where attendance was made, the Local Medical Committee (LMC).
- 1.8 The Directed Rota was published on each individual East Midlands ICB's website in April 2025 and sent via email to all contractors, LPC's and General Practitioner contracting teams within the East Midlands footprint. Each East Midlands ICB contractor is required to update the Directory of Service website.
- 1.9 Contractors identified to take part in the Directed Rota for Spring May Bank Holiday; 26 May 2025 received a proposal to direct letter, sent on 27 December 2024, in which contractors are advised they have 30 days to submit written representations to contest the proposal. The proposal to direct was sent via email; pharmacy.FA306@nhs.net. In the email, the pharmacy was advised 'The rate of commission for this service is £275 per hour for a maximum of 2 hours and can be claimed via pharmoutcomes, up to 28 days after the directed day. Should you not claim within this time period, assurance of the opening will be sought, and you will have up to 45 days from the directed day in which to make a final claim.' No representations were received from L Rowlands & Co (Retail) Ltd within 30 days.
- 1.10 Upon completion of the 30-day representation window, a final direction letter is sent to all identified contractors to confirm they are required to provide pharmaceutical services on the day of direction. The final direction letters for the Spring May Bank Holiday; 26 May 2025 were sent via email on 27 January 2025; pharmacy.FA306@nhs.net. In the email, the pharmacy was advised 'To claim for opening on Early May Bank Holiday 2025 you will do so on Pharmoutcomes, no later than 28 days after the directed day. If you fail to claim in this period, assurance will be sought, and you will have up to 45 days from the date of direction in which to make a final claim.' No appeal was received by L Rowlands & Co (Retail) Ltd.
- 1.11 L Rowlands & Co (Retail) Ltd, Trading as Rowlands Pharmacy (FA306), Hawthorn Road, Skegness, Lincolnshire, PE25 3TD were directed to open as below;
- 1.12 Spring May 26 May 2025
- 1.13 14:00-16:00

- 1.14 The East Midlands Primary Care Team (EMPCT) provides each contractor with a reminder to claim on the 28th day following the date on which it was directed to open its pharmacy premises. This is sent to the contractor via the premises specific NHSmail account for the pharmacy premises or an alternative given email where the premises specific NHSmail account is not yet available. If a contractor has not submitted a claim via PharmOutcomes it is then requested to provide evidence within 7 days to demonstrate that the pharmacy premises were opened in line with the Direction. Evidence of opening may include the Responsible Pharmacist log or evidence such as receipts issued to users of the pharmacy premises during the times the pharmacy was directed to be open.
- 1.15 An email requesting such assurance was sent 11 July 2025 to pharmacy.FA306@nhs.net corner@rowlandspharmacy.co.uk and eward@rowlandspharmacy.co.uk. Following discussions, the pharmacy confirmed via email that Rowlands Pharmacy (FA306), PE25 3TD were not open on Monday 26 May 2025 Spring May Bank Holiday.
- 1.16 As no such evidence was received for the above-named pharmacy premises and confirmation the pharmacy had not opened as per the direction, this was considered by the Pharmaceutical Services Regulations Committee (PSRC) at its meeting on 16 September 2025. The committee agreed to issue the pharmacy with a breach notice for failure to provide pharmaceutical services on the directed days on Monday 26 May 2025 Spring May Bank Holiday. It noted that this breach is not capable of remedy. The PSRC therefore considered it appropriate to issue a breach notice.
- 1.17 The breach notice is issued under regulation 71 for a breach of paragraph 23(1)(e), Schedule 4 of the 2013 regulations, to L Rowlands & Co (Retail) Ltd, Trading as Rowlands Pharmacy (FA306), Hawthorn Road, Skegness, Lincolnshire, PE25 3TD on 29 September 2025, giving 30 days in which to submit an appeal by providing evidence that the pharmacy premises at Rowlands Pharmacy (FA306), Hawthorn Road, Skegness, Lincolnshire, PE25 3TD were open Spring May 26 May 2025 Spring May Bank Holiday.
- 1.18 You have a right of appeal to the Secretary of State against the issuing of this breach notice. Should you choose to appeal then you should send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this notice to nhsr.appeals@nhs.net or:
- 1.19 Primary Care Appeals Case Manager NHS Resolution 8th Floor 10 South Colonnade, Canary Wharf, London, E14 4PU
- 1.20 Please note that should you fail to comply with the requirements of this breach notice we reserve the right to exercise our powers to take further action in relation to your inclusion in the pharmaceutical list in respect of the above named premises. This may include removal of the premises from the pharmaceutical list under regulation 73 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended."

2 The Appeal

In a letter dated 14 October 2025 addressed to NHS Resolution, the Appellant appealed against Lincolnshire ICB (“the Commissioner”) decision. The grounds of appeal are:

2.1 “I am writing on behalf of L Rowland & Co (Retail) Ltd, trading as Rowlands Pharmacy (FA306), located at Hawthorn Road, Skegness, Lincolnshire, PE25 3TD, to formally appeal the breach notice issued on 26 September 2025 under Regulation 71 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

2.2 The breach notice relates to the alleged failure to open the pharmacy premises on Monday 26 May 2025 (Spring Bank Holiday), as directed under paragraph 23(1)(e), Schedule 4 of the 2013 regulations.

2.3 We respectfully submit this appeal on the following grounds:

2.3.1 Direction Not Received Centrally

2.3.2 The direction to open on 26 May 2025 was sent only to the pharmacy’s NHS premises email address (pharmacy.FA306@nhs.net). Unfortunately, this mailbox had been decommissioned due to a new NHS policy whereby email accounts not accessed within 30 days are automatically disabled. As a result, the direction was not received by our central contracts team, and the pharmacy was unaware of the requirement to open on the Spring Bank Holiday.

2.3.3 Staff Availability

2.3.4 The pharmacy had sufficient staff available and could have been scheduled to work on 26 May 2025. Had the direction been received and noted, we would have been able to open and provide pharmaceutical services in full compliance with the directive. The team included a responsible pharmacist and dispensers who were available and could have covered the required hours.

2.3.5 Corrective Action Taken

2.3.6 Following this incident, we notified the NHS East Midlands Primary Care Team of the communication gap. As a result, both myself (Emma Ward, eward@rowlandspharmacy.co.uk) and Lucy Corner (lccorner@rowlandspharmacy.co.uk) have been added to all future cascade communications and email notifications. This ensured that the August Bank Holiday direction was received centrally, allowing us to check rotas and take appropriate action in advance.

2.3.7 Commitment to Compliance

2.3.8 We remain fully committed to meeting all contractual obligations and maintaining transparency with NHS bodies. We have implemented internal safeguards to ensure that all relevant communications are monitored and acted upon promptly.

- 2.4 Considering the circumstances and our proactive steps to prevent recurrence, we respectfully request that the breach notice be reconsidered. Please do not hesitate to contact me should you require further clarification or supporting documentation.”

3 **Summary of Representations**

This is a summary of representations received on the appeal.

3.1 THE APPELLANT

- 3.1.1 “Please see below our core hours which would have been counted towards our 40 -core hours.

Total hours: 40h 0m

Core hours only

Monday

09:00 - 13:00

14:00 - 18:00

Total: 8h 0m

Tuesday

09:00 - 13:00

14:00 - 18:00

Total: 8h 0m

Wednesday

09:00 - 13:00

14:00 - 18:00

Total: 8h 0m

Thursday

09:00 - 13:00

14:00 - 18:00

Total: 8h 0m

Friday

09:00 - 13:00

14:00 - 18:00

Total: 8h 0m

Saturday

Closed

Sunday

Closed

- 3.1.2 The main argument is the pharmacy **did not open on Monday 26 May 2025 (Spring Bank Holiday)** because the notification from NHS England was **only sent to a branch-specific email address**, rather than the usual process of:

3.1.2.1 Sending a **draft rota to all contractors**, and

3.1.2.2 **Notifying head office**, which is the standard communication route.

- 3.1.3 As a result, the pharmacy was unaware of the requirement to open on that day.

- 3.1.4 We have no other additional comments to make.”

3.2 THE COMMISSIONER

- 3.2.1 “Thank you for your letter dated 21 October 2025 notifying us that L Rowland & Co (Retail) Ltd (FA306) has appealed against Lincolnshire Integrated Care Boards decision to issue a breach notice for failing to provide pharmaceutical services on a directed day 23(1)(e).

- 3.2.2 We note that L Rowland & Co (Retail) Ltd (FA306) are appealing this direction for the reasons listed below.

3.2.2.1 *Direction Not Received Centrally The direction to open on 26 May 2025 was sent only to the pharmacy’s NHS premises email address (pharmacy.FA306@nhs.net). Unfortunately, this mailbox had been decommissioned due to a new NHS policy whereby email accounts not accessed within 30 days are automatically disabled. As a result, the direction was not received by our central contracts team, and the pharmacy was unaware of the requirement to open on the Spring Bank Holiday.*

3.2.2.2 *Staff Availability The pharmacy had sufficient staff available and could have been scheduled to work on 26 May 2025. Had the direction been received and noted, we would have been able to open and provide pharmaceutical services in full compliance*

with the directive. The team included a responsible pharmacists and dispensers who were available and could have covered the required hours.

3.2.2.3 Corrective Action Taken Following this incident, we notified the NHS East Midlands Primary Care Team of the communication gap. As a result, both myself (Emma Ward, eward@rowlandspharmacy.co.uk) and Lucy Corner (lc corner@rowlandspharmacy.co.uk) have been added to all future cascade communication and email notifications. This ensured that the August Bank Holiday Direction was received centrally, allowing us to check rotas and take appropriate action in advance.

3.2.2.4 Commitment to Compliance We remain fully committed to meeting all contractual obligations and maintaining transparency with NHS bodies. We have implemented internal safeguards to ensure that all relevant communications are monitored and acted upon promptly.

3.2.3 The East Midlands Primary Care Team on behalf of NHS Lincolnshire Integrated Care Boards would like to make the following representations:

3.2.4 NHS Lincolnshire Integrated Care Boards under Schedule 4, Part 3, paragraph 25(2)(b) of the NHS (Pharmaceutical Services and Local Pharmaceutical Services) Regulations 2013 (As amended) has the ability to direct a pharmacy to open where a need is determined.

3.2.5 The regulations state.

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

(a) the reasons for the change and

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

3.2.6 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.

3.2.7 NHS Lincolnshire Integrated Care Board (ICB) were not notified of any pharmacies that would be opening in the Skegness area on 26 May 2025 and no pharmacies volunteered to open on this day. Under section 126 of the NHS Act 2006 (Arrangement for pharmaceutical services), NHS England (now delegated to the ICBs) must make arrangements for the provision, to person's who are in England of;

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

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

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

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

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

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

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

3.2.8 In the event that no pharmacies will open on Spring May 26 May 2025, NHS Lincolnshire ICB were of the opinion that the needs of people in its area or other likely users of pharmacy premises for pharmaceutical services would not be met on this day.

3.2.9 NHS Lincolnshire ICB considered the arrangements needed to be put in place for Spring May 26 May 2025. In order to discharge this duty, NHS Lincolnshire ICB were of the opinion that whilst demand for the full range of pharmaceutical services may be lower on this day compared to a Thursday (that is not a public holiday), there was still a need for pharmaceutical services for people who live within Skegness, Alford, Horncastle, Spilsby, Ingoldmells and Chapel St Leonards – East Lindsey locality and surrounding areas or who are visiting these areas during the Bank Holiday period. Whilst GP practices will be closed on Spring May 26 May 2025, other providers of NHS services will be open such as GP out of hours service and A&E departments.

3.2.10 NHS Lincolnshire ICB believe that, as a minimum, the services for which there was to be a need on Spring May 26 May 2025 are as follows.

- 3.2.10.1 *The dispensing service for prescriptions issued by a NHS service provider that is open on that day or for prescriptions that have been issued on a previous day but which a person has not been able to have dispensed due, for example, being at work and pharmacies reducing their supplementary opening hours on Spring May 26 May 2025.*
- 3.2.10.2 *The Pharmacy First service for the urgent supply of repeat medicines, referrals from NHS11 for low acuity, minor illnesses or under one of the clinical pathways.*
- 3.2.10.3 *The NHS pharmacy contraception advanced service, particularly as it is being expanded to include the provision of emergency contraception from October 2025.*
- 3.2.11 Of course, some people may wish to access other essential and advanced services. As stated above, we are not aware of any pharmacies that would be open on Spring May 26 May 2025 and therefore NHS Lincolnshire ICB was unable to discharge the duty as set out in section 126 of the NHS Act 2006.
- 3.2.12 The East Midlands Primary Care Team emailed out to all contractors to request that they submit their intentions of opening during Bank Holiday periods 2025/26 to identify pharmacies voluntarily opening. Responses were to be returned to England.eastmidpharmacy@nhs.net. This enables NHS Lincolnshire ICB to identify whether any pharmacies intend to open voluntarily.
- 3.2.13 Following this process, no volunteers were received within the Skegness, Alford, Horncastle, Spilsby, Ingoldmells and Chapel St Leonards – East Lindsey. As set out above, NHS England (now delegated to the ICBs) must make arrangements for the provision of pharmaceutical care, and in the absence of this provision, look to issue a direction.
- 3.2.14 Following an initial assessment by the East Midlands Primary Care Team, where the Pharmaceutical Needs Assessment (PNA) was utilised to establish the need for pharmaceutical provision in Lincolnshire, L Rowland & Co (Retail) Ltd (FA306) was identified as meeting the needs of people in the Skegness area for the following reasons:
- 3.2.14.1 There is a need to provide pharmaceutical services in Skegness where there is currently no provision on Spring May Bank Holiday 26th May 2025.
- 3.2.14.2 L Rowland & Co (Retail) Ltd (FA306) is located in proximity to an urgent treatment centre (Skegness urgent treatment centre). This proposed direction would bring benefits for patients as those attending the urgent treatment centre would not have to travel long distances to collect essential medications, especially

on a public holiday when public transport is limited. This proposed direction would also benefit the local health system, as patients requiring advice as part of Pharmacy First can be directed or referred to the pharmacy, reducing unnecessary attendance at the urgent treatment centre and enabling focus on patients with the most urgent need.

3.2.14.3L Rowland & Co (Retail) Ltd (FA306) is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within NHS Lincolnshire ICB which has been identified as a deprived area, 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 Lincolnshire ICB to improve access to healthcare for vulnerable groups and reduce health inequalities. Areas of high deprivation are also likely to have more patients with long-term conditions requiring management, and this proposed direction would ensure provision of dispensing for these patients.

3.2.14.4Sufficient availability of public transport and car parking accessibility.

3.2.14.5Consultations are held regularly with the Local Pharmaceutical Committee for pharmaceutical provision of upcoming public or bank holidays and no concerns were raised in issuing a direction to L Rowland & Co (Retail) Ltd (FA306)

3.2.15 NHS Lincolnshire ICB also reviewed the claim forms submitted by contractors who previously opened on Spring May Bank Holiday within the Skegness, Alford, Horncastle, Spilsby, Ingoldmells and Chapel St Leonards – East Lindsey locality and determined the level of cover required from the information provided regarding the number of patients accessing pharmaceutical services, the number of prescriptions dispensed and the number of patients requesting advice from a pharmacist. It is to be noted that this is a recognised holiday town, which naturally experiences increased visitor activity. Bank holidays, in particular, bring a significant higher footfall due to the influx of tourists.

3.2.16 Further to this, the minimum hours required for sufficient pharmaceutical services cover is between 10am – 4pm. This ensures that patients have access to these services on a day where public transport is not as easily accessible.

3.2.17 As a result of this assessment, it was determined that direction was required to provide adequate pharmaceutical services. L Rowland & Co (Retail) Ltd (FA306) was directed to open for the hours of 14:00-16:00 as the pharmacy satisfies the above assessment criteria, The pharmacy would receive £275.00 per hour for up to a maximum of 2 hours for opening as directed.

- 3.2.18 In line with pharmacy regulations and the Pharmacy Manual, a proposal to direct letter was issued via email to pharmacy.FA306@nhs.net 27 December 2024 followed by a 28-day period in which the pharmacy was able to submit representations against receiving a direction.
- 3.2.19 As no representation were received from the pharmacy, the East Midlands Primary Care Team proceeded to issue a direction letter via email to pharmacy.FA306@nhs.net on 27 January 2025, allowing 28-day period in which the pharmacy was able to submit an appeal against the direction to NHS Resolution.
- 3.2.20 As no appeal was received, the direction was upheld and the East Midlands Primary Care Team sent a list of pharmacies scheduled to be open Spring May 26 May 2025 to all pharmacies, via email, on 12 May 2025, 19 May 2025 and 23 May 2025. I can confirm that on the three (3) days mentioned, pharmacy.FA306@nhs.net was included in the recipients.
- 3.2.21 On 23 June 2025, following Spring May 26 May 2025, an email was sent to pharmacy.FA306@nhs.net to remind the pharmacy to submit a claim via PharmOutcomes ahead of the claim window closing on 10 July 2025. The pharmacy was notified that should they fail to submit a claim ahead of this date, assurance in line with the pharmacy manual would be requested to ensure the pharmacy was opening for the directed hours. No response was received.
- 3.2.22 It is to be noted that prior to this date, lorner@rowlandspharmacy.co.uk and eward@rowlandspharmacy@nhs.net were not identified as a point of contact the distribution lists.
- 3.2.23 On 11 July 2025, an email was sent to pharmacy.FA306@nhs.net, lorner@rowlandspharmacy.co.uk and eward@rowlandspharmacy@nhs.net to request assurance of opening on Spring May 26 May 2025 be submitted by 18 July 2025. The pharmacy responded via email and following discussions, on 14 July 2025, the pharmacy confirmed they did not open as per the direction issued thus breaching regulation 23(1)(e).
- 3.2.24 In response to:
- 3.2.24.1 *Direction Not Received Centrally The direction to open on 26 May 2025 was sent only to the pharmacy's NHS premises email address (pharmacy.FA306@nhs.net). Unfortunately, this mailbox had been decommissioned due to a new NHS policy whereby email accounts not accessed within 30 days are automatically disabled. As a result, the direction was not received by our central contracts team, and the pharmacy was unaware of the requirement to open on the Spring Bank Holiday.*

- 3.2.25 Pharmacy contractors are required by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 to maintain an NHS.net Connect premises-specific account as detailed in Schedule 4, 29(C);

29C(1) – An NHS pharmacist (P) must ensure that pharmacy staff at pharmacy premises (including locums) have access to, and are able to send and receive messages via NHS.net Connect from a premises specific account.

(2) P must ensure that at least two members of the pharmacy staff have live, linked NHS.net Connect accounts to the premises specific NHS.net Connect account (unless fewer than two members of the pharmacy staff are engaged in the provision of NHS services)

- 3.2.26 Commissioners are not required under pharmacy regulations to contact email addresses outside of the NHS.net Connect premises-specific account. The NHS.net Connect premises-specific email is the central email for NHS pharmaceutical services communications for pharmacies and therefore NHS Lincolnshire Integrated Care Board in this instance carried out their responsibilities under NHS (Pharmaceutical Services and Local Pharmaceutical Services) Regulations 2013 (As amended) when issuing a direction to L Rowland & Co (Retail) Ltd (FA306) for Spring May 26 May 2025.

- 3.2.27 It is noted that L Rowland & Co (Retail) Ltd (FA306) were unaware of the direction for Spring May 26 May 2025 due to loss of access to pharmacy.FA306@nhs.net, however whilst we acknowledge the pharmacy contractors loss of access to the NHS.net Connect premises-specific account, NHS Lincolnshire Integrated Care Boards or The East Midlands Primary Care Team were not notified of this or provided with an alternative contact for necessary NHS pharmaceutical services communication to be received by the pharmacy contractor.

- 3.2.28 Further to this, it is the responsibility of the pharmacy contractor to ensure compliance with NHS (Pharmaceutical Services and Local Pharmaceutical Services) Regulations 2013 (As amended) regarding the maintenance of the premises specific NHS.net Connect account, failure to do so is a further breach of Pharmacy Regulations; Schedule 4, regulation 29(C)(1) and 29(C)(2).

- 3.2.29 Following communications with Rowlands Pharmacy (FA306), on 17 October 2025, confirmation was received by the East Midlands Primary Care Team to confirm that the NHS.net Connect premises-specific account has been re-instated and the pharmacy has since fulfilled requirements regarding access.

- 3.2.30 In response to:

3.2.30.1 Staff Availability

3.2.30.2 *The pharmacy had sufficient staff available and could have been scheduled to work on 26 May 2025. Had the direction been received and noted, we would have been able to open and provide pharmaceutical services in full compliance with the directive. The team included a responsible pharmacist and dispensers who were available and could have covered the required hours.*

3.2.30.3 *Corrective Action Taken*

3.2.30.4 *Following this incident, we notified the NHS East Midlands Primary Care Team of the communication gap. As a result, both myself (Emma Ward, eward@rowlandspharmacy.co.uk) and Lucy Corner (lc corner@rowlandspharmacy.co.uk) have been added to all future cascade communication and email notifications. This ensured that the August Bank Holiday Direction was received centrally, allowing us to check rotas and take appropriate action in advance.*

3.2.30.5 *Commitment to Compliance*

3.2.30.6 *We remain fully committed to meeting all contractual obligations and maintaining transparency with NHS bodies. We have implemented internal safeguards to ensure that all relevant communications are monitored and acted upon promptly.*

3.2.31 Whilst it is recognised that staff could have been available and measures have been implemented to mitigate future incidents, it has been brought to the attention of the East Midlands Primary Care Team that regulatory breaches have still occurred regarding 23(1)(e).

3.2.32 NHS Lincolnshire Integrated Care Board and The East Midlands Primary Care Team acknowledge and appreciate the corrective measures taken by L Rowland & Co (Retail) Ltd (FA306) and their commitment to compliance of pharmaceutical services.

3.2.33 We would also like to express our thanks that they have now resolved access regarding their NHS.net Connect premises-specific account.

3.2.34 I would like to take this opportunity to respond to any further representations provided by L Rowland & Co (Retail) Ltd (FA306), Rowlands Pharmacy, Hawthorn Road, Skegness, Lincolnshire, PE25 3TD."

4 **Observations**

No observations were received by NHS Resolution in response to the representations received on appeal.

5 **Consideration**

- 5.1 Under Regulation 71(1) “Breaches of terms of service: breach notices” of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”), a Breach Notice may be issued:

71. (1) Where an NHS chemist (C) breaches a term of service and the breach is not capable of remedy, NHS England may by a notice (“a breach notice”) require C not to repeat the breach.

- 5.2 I note that in the Regulations an NHS Chemist means “an NHS appliance contractor or an NHS pharmacist”. An NHS pharmacist is defined as “a person included in a pharmaceutical list of the type referred to in regulation 10(2)(a);”. Regulation 10(2)(a) states:

10(2) “Those lists (which are pharmaceutical lists) are

(a) a list of persons who undertake to provide pharmaceutical services in particular by way of the provision of drugs;”

- 5.3 The Regulations contain no definition as to what constitutes a breach of terms of service which is not capable of remedy.

- 5.4 I note that the pharmacy is included on the pharmaceutical list and that there is no dispute between the parties with regard to this.

- 5.5 I note that the Breach Notice was issued pursuant to Regulation 71(1) and is compliant with the requirements of a Breach Notice as it includes the nature of the breach and an explanation of the Appellant’s right of appeal under Regulation 77(1)(c).

- 5.6 The Breach Notice states:

- 5.7 *“The final direction letters for the Spring May Bank Holiday; 26 May 2025 were sent via email on 27 January 2025; pharmacy.FA306@nhs.net. In the email, the pharmacy was advised ‘To claim for opening on Early May Bank Holiday 2025 you will do so on Pharmoutcomes, no later than 28 days after the directed day. If you fail to claim in this period, assurance will be sought, and you will have up to 45 days from the date of direction in which to make a final claim.’ No appeal was received by L Rowlands & Co (Retail) Ltd.*

L Rowlands & Co (Retail) Ltd, Trading as Rowlands Pharmacy (FA306), Hawthorn Road, Skegness, Lincolnshire, PE25 3TD were directed to open as below;

Spring May 26 May 2025

14:00-16:00.”

- 5.8 The Breach Notice further records that on 11 July 2025 the Commissioner contacted the Appellant by email requesting assurance that pharmaceutical services had been provided on the directed date. Following discussions, the pharmacy confirmed by email that it had not opened on Monday 26 May 2025.

- 5.9 In its appeal, the Appellant states that it was unaware of the direction to open on 26 May 2025 because the premises specific NHSmail account had been decommissioned due to inactivity, resulting in the emails not being viewed. The Commissioner states that it was not notified that the mailbox was inactive and was not provided with an alternative contact address for the receipt of NHS pharmaceutical services communications.
- 5.10 The Appellant does not dispute that the emails were correctly sent to the premises specific NHSmail account. Nor is it disputed that the Appellant received and responded to the Commissioner's later emails in July 2025. I am therefore of the view that the Appellant had the opportunity to enter into local dispute resolution with the Commissioner. There is no dispute raised by either party that the local dispute resolution process has not been exhausted. Given that both parties do not dispute that local dispute resolution has been exhausted I am content that I can deal with this matter.
- 5.11 I note that the Appellant seeks to appeal against the decision of the Commissioner to issue the Breach Notice for its failure to open for directed hours between 14:00 and 16:00 on Monday 26 May 2025.
- 5.12 Paragraph 23(1)(e) of Schedule 4 states:
- (1) Subject to paragraph 23A, an NHS pharmacist (P) must ensure that pharmaceutical services are provided at P's pharmacy premises—*
- (e) if NHS England or a Primary Care Trust, or on appeal the Secretary of State, has directed that pharmaceutical services are to be provided at the premises for more than 40 hours each week, but only on set times and on set days as regards the additional opening hours, or the core opening hours where paragraph 26(4A) applied to the issuing of the direction—*
- (i) for the total number of hours each week required by virtue of that direction, and*
- (ii) as regards the additional opening hours for which the person listed in relation to the premises is required to provide pharmaceutical services by virtue of that direction, at the days on which and times at which that person is required to provide pharmaceutical services during those additional opening hours, as set out in that direction, subject to any variation in respect of a rest break in accordance with sub-paragraph (7)(bd),*
- but NHS England may, in appropriate circumstances, agree a temporary suspension of services for a set period, where it has received 3 months notice of the proposed suspension.*
- 5.13 I am of the view that the pharmacy would normally have been closed on the bank holiday on 26 May 2025 and that this would be in accordance with the Regulations.

- 5.14 I note that the final direction letter was sent on 27 December 2024 and no appeal was made against the decision to issue the direction.
- 5.15 There is no dispute that the Appellant did not open for the directed hours on 26 May 2025. I note the Appellant states that “*The direction to open on 26 May 2025 was sent only to the pharmacy’s NHS premises email address (pharmacy.FA306@nhs.net). Unfortunately, this mailbox had been decommissioned... As a result, the direction was not received by our central contracts team, and the pharmacy was unaware of the requirement to open on the Spring Bank Holiday.*”
- 5.16 The Commissioner states in its representations that “*On 23 June 2025, following Spring May 26 May 2025, an email was sent to pharmacy.FA306@nhs.net to remind the pharmacy to submit a claim via PharmOutcomes ahead of the claim window closing on 10 July 2025... No response was received.*

It is to be noted that prior to this date, lcorner@rowlandspharmacy.co.uk and eward@rowlandspharmacy@nhs.net were not identified as a point of contact the distribution lists.

On 11 July 2025, an email was sent to pharmacy.FA306@nhs.net, lcorner@rowlandspharmacy.co.uk and eward@rowlandspharmacy@nhs.net to request assurance of opening on Spring May 26 May 2025 be submitted by 18 July 2025. The pharmacy responded via email and following discussions, on 14 July 2025, the pharmacy confirmed they did not open as per the direction issued thus breaching regulation 23(1)(e).”

- 5.17 At this point, it is important to reference Paragraph 29C of Schedule 4 which states:

Contact via NHSmail, pharmacy profiles and the Central Alerting System

29C.—(1) An NHS pharmacist (P) must ensure that pharmacy staff at pharmacy premises (including locums) have access to, and are able to send and receive NHSmail from, a premises specific NHSmail account.

(2) P must ensure that at least two members of the pharmacy staff have live, linked NHSmail accounts to the premises specific NHSmail account (unless fewer than two members of the pharmacy staff are engaged in the provision of NHS services).

- 5.18 I am of the view that responsibility for ensuring access to, and monitoring of, the premises specific NHSmail account rests with the Appellant. This is a regulatory requirement as per paragraph 29C. The decommissioning of the mailbox due to inactivity does not absolve the Appellant of its obligation to ensure it has the appropriate method to receive and act upon NHS communications. In the absence of any notification to the Commissioner that the mailbox was inactive, or provision of an alternative contact method, the risk of non-receipt of communications, of the type outlined in this case, existed and was the Appellant’s responsibility to mitigate.

- 5.19 I have not been provided with any other reason why the Appellant was unable to open on 26 May 2025. Whilst I note that the Appellant has indicated that it has subsequently implemented “*internal safeguards to ensure that all relevant communications are monitored and acted upon promptly*” which is commendable, I am of the view that the Appellant’s failure to open between 14:00 and 16:00 on 26 May 2025 is a breach of paragraph 23(1)(e) of Schedule 4 of the Regulations.

6 Decision

- 6.1 I am of the view that under NHS Resolution’s powers, as set out in paragraph 9(5) of Schedule 3 to the Regulations, I may either confirm the decision of the Commissioner or substitute for that decision any decision that the Commissioner could have taken when it took that decision.
- 6.2 Pursuant to paragraph 9(5)(a) of Schedule 3 to the Regulations I confirm the decision of the Commissioner to issue the Breach Notice.

**Head of Appeals
NHS Resolution**