

2 June 2026

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

FILE REF: SHA/26903

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

**COMMISSIONER: HAMPSHIRE AND ISLE
OF WIGHT ICB
("the Commissioner")**

**PHARMACIST: JCL UK LTD (t/a LALYS PHARMACY)
("the Applicant")**

**PREMISES: 8E FRATTON WAY,
POMPEY CENTRE,
FRATTON,
PORTSMOUTH,
HAMPSHIRE,
PO4 8TA**

**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]**

Outcome

- 1.1. Based on the information provided, I am not satisfied that the pharmaceutical services provision that would result from the Applicant's proposed hours are likely to benefit the people who are accustomed to accessing pharmaceutical services at the pharmacy premises such that they would be more likely to access services during the proposed hours, therefore the Applicant cannot rely on paragraph 26(2ZB).
- 1.2. The action taken by the Commissioner to refuse the application is confirmed.

A copy of this decision is being sent to:
JCL UK Ltd (t/a Lalys Pharmacy)
Hampshire and Isle of Wight ICB

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

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1 Introduction

- 1.1 The Applicant has applied to the Commissioner to change the days and times at which it is obliged to provide pharmaceutical services at the above premises. The Applicant seeks to keep the total number of core opening hours the same while offering a different distribution of these hours during the week.
- 1.2 The Commissioner has refused the application. The Applicant seeks to appeal to NHS Resolution.

Rights of appeal

- 1.3 Where the Commissioner has determined an application under paragraph 26 of Schedule 4 of the Regulations and has granted it in part only or has taken an action that has the effect of refusing it, paragraph 26(9) 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” (at the hours during which the pharmacy must be open by virtue of paragraph 23(1) of Schedule 4 of the Regulations), which may incorporate a direction of the Commissioner requiring fewer or greater than 40 hours and at set times and days; or

1.5.2 “supplementary” opening hours (other hours during which the pharmacy premises are open which are in addition to the core hours), pursuant to paragraph 23(3) of Schedule 4 of the Regulations.

Alteration of core opening hours

1.6 In accordance with paragraphs 1(7)(c) and 1(7)(d) of Schedule 2 of the Regulations, the pharmacy must provide, as part of an application for entry in the pharmaceutical list:

1.6.1 the proposed core opening hours in respect of the premises; and

1.6.2 the total proposed opening hours for the premises (having regard to both the proposed core opening hours and any supplementary opening hours).

1.7 The Commissioner maintains pharmaceutical lists that include the days on which and times at which, at those premises, the listed person is to provide those services during the core opening hours and any supplementary opening hours of the premises.

1.8 The days on which or times at which a pharmacy is obliged to provide pharmaceutical services at the premises may only be altered by the pharmacy on application under paragraph 26(1) of Schedule 4 of the Regulations, so long as the effect of that application is to reduce the total number of hours for which a pharmacy is obliged to provide, or keep the total number of hours the same.

Alteration of supplementary opening hours

1.9 Supplementary opening hours may be altered by the pharmacy giving notice to the Commissioner, in accordance with paragraph 23(6)(a) of Schedule 4 of the Regulations, without the need to make an application to the Commissioner.

1.10 There is no specific right of appeal to NHS Resolution in respect of notices given under paragraph 23(6)(a).

2 Application

In this case, the Applicant provided the following information in its application form and supporting information dated 8 December 2025:

2.1 “This is an application to permanently change core opening hours.

2.2 Current opening hours for these premises:

Monday	0830 – 1200 1400 – 1800
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Tuesday	0830 – 1200 1400 – 1800
Wednesday	0830 – 1200 1400 – 1800
Thursday	0830 – 1200 1230 – 1800
Friday	0830 – 1200 1300 – 1800
Saturday	None
Sunday	None

2.3 Proposed core opening hours for these premises:

Monday	0830 – 1200 1300 – 1730
Tuesday	0830 – 1200 1300 – 1730
Wednesday	0830 – 1200 1300 – 1730
Thursday	0830 – 1200 1300 – 1730
Friday	0830 – 1200 1300 – 1730
Saturday	None
Sunday	None

- 2.4 If this is a permanent change, please state below the date from which you would like the change to take effect: 8 January 2026
- 2.5 The Applicant confirmed that it wished its application to be determined on the basis of Paragraph 26(2ZB), Schedule 4.
- 2.6 Please provide the information that demonstrates that your proposed core opening hours will ensure that the people who are accustomed to accessing pharmaceutical services at the pharmacy premises listed above are likely to benefit from the changes because, overall, they would be more likely to access those services at the pharmacy premises during the proposed core opening hours than during the existing core opening hours.
- 2.7 There is minimal footfall and activity between 17:30 and 18:00. We will continue to maintain the existing level of service provision. The co-located surgery sites closes [sic] at 17:30 as well, subsequently impacting the demand. Please see attached Data [see Appendix A]. The pharmacy will continue to maintain the existing level of service provision at times when people are more likely to access services, ensuring that resources are deployed in a way that best meets the needs of patients and customers in the area. We have other branches nearby such as 1 Guildhall Walk, Portsmouth, PO1 2RY which is open until 9pm during the week, alternatively we also have 3-5 Kingston Road open until 18:30 which are both 1.5 miles away.”

3 The Decision

In a letter to the Applicant dated 12 February 2026 the Commissioner decided to refuse the application. The Commissioner stated:

- 3.1 “I write with reference to your application to permanently change the Core hours for JCL (UK) Ltd t/a Lalys Pharmacy (FQE31), 8e Fratton Way, Pompey Centre, Fratton, Portsmouth, Hampshire, PO4 8TA received on 8 December 2025.
- 3.2 Hampshire & Isle of Wight Integrated Care Board (ICB), has considered the above application and I am writing to confirm that it has been refused.

REASON FOR THE DECISION

- 3.3 Your application has been refused on the grounds that you have not met the requirements set out in paragraph 26(2ZB), Schedule 4 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

Consideration

- 3.4 No Information was provided in the application describing how the people accustomed to accessing pharmaceutical services are likely to benefit from the proposed changes.
- 3.5 The Committee agreed the Applicant had not demonstrated people accustomed to accessing pharmaceutical services are likely to benefit from the proposed changes, because, overall, they would be more likely to access those services at the premises during the proposed core opening hours than during the existing core opening hours.

Decision

- 3.6 The application to change core hours was therefore refused.
- 3.7 The Committee noted that the proposed change to supplementary hours were affected by the proposed core hour changes. As the core hours application had been refused the changes to supplementary hours could not take effect.
- 3.8 Following the refusal of the core hours application, the supplementary hours notification will be recorded as withdrawn.

RIGHT OF APPEAL

- 3.9 You have a right of appeal to the Secretary of State against the decision of Hampshire & Isle of Wight Integrated Care Board (ICB). 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 letter to: NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU or email: nhsr.appeals@nhs.net

4 The Appeal

In a letter to NHS Resolution dated 17 February 2026 the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

- 4.1 "This appeal is submitted in respect of the decision to refuse the application to amend the pharmacy's core opening hours under Paragraph 26(2ZB), Schedule 4 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.
- 4.2 The refusal stated that insufficient information had been provided to demonstrate patient benefit and that patients would be more likely to access services during the proposed hours than the existing hours. This appeal addresses those findings directly.

Evening Demand and Staffing Levels

- 4.3 Dispensing data, consultation records, and footfall analysis demonstrate that the evening period subject to the proposed amendment consistently experiences very low patient attendance and minimal dispensing activity.
- 4.4 Importantly, the pharmacy maintains appropriate and consistent staffing levels throughout the evening period. The reduced utilisation is therefore not attributable to limited staffing, reduced service capacity, or restricted service availability. The pharmacy has remained fully operational and capable of delivering the full range of services during these hours.
- 4.5 The evidence confirms that demand during the relevant evening period is inherently low.

Impact of GP Surgery Closing Time

- 4.6 The local GP surgery, which is the primary source of prescription generation and patient referrals, closes at 5:30pm. Following this time, there is a marked and consistent reduction in prescription flow and patient footfall.
- 4.7 The pharmacy's activity data reflects this established pattern, with minimal new prescription generation occurring after the GP surgery closes. The proposed amendment aligns core hours with the practical flow of local healthcare demand.

Continued Access Through Alternative Local Provision

- 4.8 There are other pharmacies within reasonable proximity that remain open later into the evening.
- 4.9 Patients who require access to pharmaceutical services after the proposed amended core hours will continue to have reasonable alternative provision available locally.
- 4.10 The proposed change therefore does not create a gap in service provision within the area, nor does it restrict overall patient access to NHS pharmaceutical services.

Alignment with Patient Usage Patterns and Sustainability

- 4.11 Patients are demonstrably more likely to access pharmaceutical services during daytime and peak periods when the GP surgery is operational. The proposed core hours reflect actual usage patterns and patient behaviour.
- 4.12 By consolidating core hours into periods of established demand:
- 4.12.1 Patients will continue to access services at times when they are most likely to attend;
 - 4.12.2 Staffing and resources will be appropriately aligned with peak activity;
 - 4.12.3 The pharmacy will maintain a sustainable level of adequate service provision for the local population;
- 4.13 The long-term viability of the pharmacy will be safeguarded, protecting ongoing access to services.
- 4.14 Maintaining core hours during a period of consistently negligible activity does not improve access and does not represent an effective use of resources.

Conclusion

- 4.15 The evidence demonstrates that:
- 4.15.1 The evening period experiences consistently low demand despite full staffing levels;
 - 4.15.2 Activity reduces significantly following the 5:30pm closure of the local GP surgery;
 - 4.15.3 Alternative pharmacies remain open later, ensuring continued local access;
- 4.16 The proposed amendment maintains the necessary and sustainable level of pharmaceutical service provision in the area.
- 4.17 Accordingly, it is respectfully submitted that the refusal decision should be reconsidered and the application approved."

5 Representations

No representations were received by NHS Resolution in response to the appeal, however the Commissioner provided its paperwork regarding the application, which was circulated to the Applicant for information.

6 Consideration

- 6.1 I note the following:
- 6.1.1 The Applicant's core opening hours total 40 hours and the Applicant proposes to redistribute those 40 core opening hours pursuant to paragraph 26 of Schedule 4.
- 6.2 The Applicant proposes to:

- 6.2.1 Close at 5:30pm during the week instead of at 6pm;
- 6.2.2 Open at 1pm Monday to Wednesday rather than at 2pm; and
- 6.2.3 Open at 1pm on a Thursday rather than at 12:30pm.
- 6.3 The Regulations, which came into force on 1 April 2013, have been amended a number of times. Certain amendments, relating to pharmacy premises opening hours, came into force with effect from 25 May 2023. Further amendments to paragraph 26, Schedule 4, Part 3 of the Regulations came into force on 23 June 2025.
- 6.4 Paragraph 26(1) states:
- 26.— (1) An NHS pharmacist (P) may apply to NHS England for it to change the days on which or times at which P is obliged to provide pharmaceutical services during core opening hours at P's pharmacy premises in a way that—*
- (a) reduces the total number of hours for which P is obliged to provide pharmaceutical services at those premises each week ...; or*
- (b) keeps that total number of hours the same.*
- 6.5 I have first considered paragraph 26(2ZA) of Schedule 4 of the Regulations, which reads as follows:
- Where P makes an application under sub-paragraph (1)(b), as part of that application P must provide NHS England with such information as NHS England may reasonably request in respect of the matters that NHS England must seek to ensure pursuant to sub-paragraph (2ZB) or paragraph 24(1) (depending on the basis of the application).*
- 6.6 I note the Applicant indicated that it wanted its application to be determined on the basis of Paragraph 26(2ZB), Schedule 4.
- 6.7 Paragraph 26(2ZB) reads as follows:
- In the case of an application under sub-paragraph (1)(b) which is based on the matters that NHS England must seek to ensure pursuant to this sub-paragraph, where NHS England—*
- issues a direction under sub-paragraph (4) for setting any days or times for opening hours; or*
- determines the application under sub-paragraph (4) without issuing a direction,*
- it must in doing so seek to ensure that the people who are accustomed to accessing pharmaceutical services at the pharmacy premises are likely to benefit from the changes because, overall, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours.*

- 6.8 I will consider the application of paragraph 26(2ZB) and whether the proposed hours are likely to benefit the people who are accustomed to accessing pharmaceutical services at the pharmacy premises, such that they would be more likely to access those services during the proposed opening hours.
- 6.9 To properly assess the application against paragraph 26(2ZB), I need to determine the level of demand for pharmaceutical services at the pharmacy premises. I then need to consider whether patients accustomed to accessing those services would be more likely to access services at the pharmacy premises during the proposed opening hours rather than the existing opening hours.
- 6.10 I therefore need to be provided with sufficient information to understand a range of matters. I consider a core question to be the benefit created because of increased availability to existing users. This can be broken down into three key elements: the first being that the change must be beneficial; the second being that the new hours are more accessible, and the last, which underpins both aspects, is that this must be measured by the impact on people who are accustomed to accessing the pharmacy, not new users.
- 6.11 As a starting point I note that the language of paragraph 26(2ZB) relates to why a change in hours is being requested. The reason for the change must at the very least include that those individuals who already use the pharmacy will be more likely to do so during the changed hours. The Regulations do not explain how this should be established but I consider that it must form at least part of the explanation and evidence provided by the Applicant.
- 6.12 I have had regard to the comments by the Applicant of those using the pharmacy. If I am satisfied that there is reliable evidence indicating no users of the pharmacy on/at the relevant days/times that the pharmacy wishes to close, this might support an argument that those accustomed to accessing pharmaceutical services would be more likely to access those services during the proposed opening hours.
- 6.13 I note the information provided by the Applicant, with the original application form, which is taken over a period of 6 weeks from Monday 15 September 2025 to Friday 26 October 2025. The information shows "Activity Data" for four different categories (Rx dispensed, NHS Services (NMS, CPCS, PF etc), Retail Queries (not NHS) and Rx Collection) for both the period 08:30 – 9:00am and 5:30 – 6:00pm.
- 6.14 I have not been provided with any information as to how the survey was carried out e.g. whether every interaction was captured. Further, I note the Applicant's reference to dispensing data, however I have not been provided with this.
- 6.15 I am unsure why the information for the period 8:30am to 9am is included as, according to the original application form from the Applicant, they are seeking to amend the lunchtime and early evening opening hours of the pharmacy and the current core hours of 8:30am to 12noon Monday to Friday are remaining constant.

- 6.16 I note, from the information before me, that there was some activity within the period 5:30pm to 6pm every weekday for the 6 weeks that I have data for. I also note the comments from the Applicant that *"Dispensing data, consultation records, and footfall analysis demonstrate that the evening period subject to the proposed amendment consistently experiences very low patient attendance and minimal dispensing activity"* and further *"The evening period experiences consistently low demand despite full staffing levels"*.
- 6.17 I am aware that pharmaceutical services consist of both dispensing and non-dispensing activity and I have been provided with a tally chart showing various reasons for visits to the pharmacy, as noted above.
- 6.18 Based on the Applicant's comments as well as the information provided to me, I consider it reasonable to take the position that there is demand for pharmaceutical services on a weekday between 5:30pm and 6pm.
- 6.19 I now need to consider if, the changes to hours are likely to be beneficial for those accustomed to accessing pharmaceutical services at the pharmacy premises because they are more likely to access services at those times. It is worth noting that evidence to demonstrate the actual level of demand might be relevant here.
- 6.20 I note that the Applicant is seeking to open earlier on an afternoon at 1pm on a Monday, Tuesday, Wednesday and Thursday. I note that the Applicant already opens at 1pm on a Friday afternoon as part of its existing core hours. Whilst the Applicant is proposing to open on a Monday, Tuesday, Wednesday and Thursday they are already open during this period, albeit as supplementary hours. Given that patients of the pharmacy already have the option and ability to attend the pharmacy during the period in which the Applicant is seeking to open as "core hours" I am unsure as to how those who access services on an evening between 5:30pm and 6pm would benefit from the proposed weekday opening hours. Whilst I assume that there is a demand for services in an early afternoon during the week, I have no information to support this assertion. Without robust data regarding the period compared to the position as it is now, it is difficult to draw conclusions regarding the demand for services.
- 6.21 In summary, if those who do access services after 5:30pm on an evening were able to access the pharmacy earlier on an afternoon, these hours are already being provided and therefore I am unsure of what the actual effect of the change would be for those who are accustomed to accessing services on a weekday evening after 5:30pm.
- 6.22 I consider that evidence of demand would only form one part of the overall picture required to be established under paragraph 26(2ZB). I am mindful of the use of the phrase *"people who are accustomed"* in the Regulations. I consider such language to be indicative of the fact that if there is demand, no matter how small, and if those individuals are likely to cease to use the pharmacy as a result of the changes, then this would be strongly indicative that the requirements of paragraph 26(2ZB) would not be met.
- 6.23 I note that no information has been produced by the Applicant which explains what will become of the patients who previously accessed the pharmacy on a

weekday between 5:30pm and 6pm. It is unclear from both the application and the appeal whether the new hours will benefit these people in any meaningful way. I have not been provided with information on why patients are using the pharmacy on a weekday evening between 5:30pm and 6pm, which would assist an understanding of why they may use the new hours at other times or on other days.

- 6.24 I consider that without such information the base assumption must be that this change is not likely to benefit those who are accustomed to accessing the pharmacy, and, if anything, it would appear to be to their detriment.
- 6.25 I note that the Applicant has stated that there are other pharmacies open during its proposed closed hours that pharmacy users could instead visit. I note that this information is more relevant to the considerations under paragraph 24(1), which the Applicant has opted not to rely on. I consider that in the context of paragraph 26(2ZB), however, such information is detrimental to the Applicant. When read contextually, the inclusion of this information suggests that the proposal is not aimed at providing better access to services at the pharmacy for those that are accustomed to using the pharmacy during the hours which it is proposing to close and instead, the intention appears to be that they will seek the provision of services elsewhere.
- 6.26 I am of the view that I have not been provided with sufficient information to demonstrate how the proposed opening hours are likely to benefit those accustomed to accessing pharmaceutical services at the pharmacy premises.

7 Determination

- 7.1 Based on the information provided, I am not satisfied that the pharmaceutical services provision that would result from the Applicant's proposed hours are likely to benefit the people who are accustomed to accessing pharmaceutical services at the pharmacy premises such that they would be more likely to access services during the proposed hours, therefore the Applicant cannot rely on paragraph 26(2ZB).
- 7.2 The action taken by the Commissioner to refuse the application is confirmed.

**Head of Appeals
NHS Resolution**