

OFFICIAL: SENSITIVE

2 July 2026

REF: SHA/26993

**APPEAL AGAINST LEICESTER, LEICESTERSHIRE
AND RUTLAND ICB DECISION REGARDING A
BREACH NOTICE AT BROOKVALE PHARMACY,
15 MEADVALE ROAD, KNIGHTON, LEICESTER,
LEICESTERSHIRE, LE2 3WN (FJ877)**

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:

Brookvale Pharmacy Limited
East Midlands Primary Care Team, on behalf of Leicester, Leicestershire and Rutland ICB

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1 The Breach Notice

A Breach Notice dated 22 April 2026 was sent to Brookvale Pharmacy Ltd (“the Appellant”) in respect of Brookvale Pharmacy, 15 Meadvale Road, Knighton, Leicester, Leicestershire, LE2 3WN (FJ877)

- 1.1 **“Name of contractor: Brookvale Pharmacy Limited**
- 1.2 **Address of premises: Trading as Brookvale Pharmacy, 15 Meadvale Road, Knighton, Leicester, Leicestershire, LE2 3WN (FJ877)**
- 1.3 **Date of inclusion in the pharmaceutical list for the area of Leicester City Health and Wellbeing Board: 1 October 1987**
- 1.4 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).
- 1.5 **Nature of the breach**
- 1.6 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:
 - 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 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.
- 1.7 Since 1 April 2023, NHS England has delegated the commissioning of pharmaceutical services to integrated care boards (ICBs) and therefore such directions may issued [sic] to pharmacy contractors by an ICB.

- 1.8 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.
- 1.9 The Directed Rota was 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.
- 1.10 Contractors identified to take part in the Directed Rota for Christmas Day 25 December 2025 received a proposal to direct letter, sent on 15 May 2025, 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 to pharmacy.fj877@nhs.net.
- 1.11 In the email, the pharmacy was advised 'The rate of commission for this service is £350 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 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 Brookvale Pharmacy within 30 days.
- 1.12 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.
- 1.13 The final direction letters for Christmas Day 25 December 2025 were sent via email on 23 June 2025, to the email pharmacy.fj877@nhs.net.
- 1.14 In the email, the pharmacy was advised "To claim for opening on Christmas Day 25 December 2025, you will do so on PharmOutcomes, no later than 28 days after the directed days. 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'.
- 1.15 No appeal was received by Brookvale Pharmacy Limited.
- 1.16 Brookvale Pharmacy, 15 Meadvale Road, Knighton, Leicester, Leicestershire, LE2 3WN (FJ877) was directed to open as below:
- 1.17 Christmas Day 25 December 2025
14:00-16:00
- 1.18 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.
- 1.19 This reminder was sent on 29 January 2026 to the contractor at the email addresses of pharmacy.fj877@nhs.net and [redacted] and was advised

“following a data cleanse of PharmOutcomes for Christmas Day 25 December 2025, it has been identified that FJ877 Brookvale Pharmacy is yet to submit a claim for the directed hours. The 45-day claim window will close on 8 February 2026. Please can you ensure a claim is submitted for the directed hours or notify us if the pharmacy was not open on this day.”

- 1.20 The contractor informed The EMPCT on 29 January [sic] 2026 via email that there was no claim to be made by them as they did not open.
- 1.21 This was considered by the Pharmaceutical Services Regulations Committee (PSRC) at its meeting on 21 April 2026, the committee agreed that as the pharmacy had not provided pharmaceutical services on the directed day (25 December 2025), the breach of the terms of services was incapable of remedy and therefore a breach notice should be issued.
- 1.22 The PSRC on behalf of NHS Leicester, Leicestershire and Rutland ICB have therefore found Brookvale Pharmacy Limited, 15 Meadvale Road, Knighton, Leicester, Leicestershire, LE2 3WN to be in breach under Regulation 70, in respect of the breach of paragraph 23(1)(e), Schedule 4 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2013 as amended.
- 1.23 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 (Thursday 21 May 2026) to nhsr.appeals@nhs.net or:
- 1.24 Primary Care Appeals Case Manager
NHS Resolution
8th Floor 10 South Colonnade,
Canary Wharf,
London,
E14 4PU
- 1.25 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 an email dated 4 May 2026 addressed to NHS Resolution, the Appellant appealed against Leicester, Leicestershire and Rutland ICB’s (“the Commissioner”) decision. The grounds of appeal are:

- 2.1 “I am writing in response to the breach notice regarding the pharmacy’s failure to open in accordance with the directed Christmas rota.
- 2.2 Firstly, please accept our sincere apologies for not providing the required services on this occasion. We fully recognise the importance of ensuring

access to pharmaceutical services during critical holiday periods such as Christmas, and we take our contractual obligations very seriously.

- 2.3 Following an internal review, we have identified that the rota information was communicated via email with an attachment. Unfortunately, our internal processes for reviewing and acting upon such communications were not sufficiently thorough enough, and therefore misread, which resulted in the requirement to open not being properly identified or escalated within the team. Hence, regrettably losing out on the opportunity and level of remuneration that was offered for the 2 hours of opening on Christmas Day.
- 2.4 We acknowledge that, as the contractor, accountability for ensuring full compliance with all directed opening hours lies with us, and we sincerely apologise that our unintended oversight on this occasion has resulted in a breach of our contractual obligations. Since this incident, we have taken immediate and comprehensive actions to ensure that this does not happen again. This includes:
 - 2.4.1 All NHS and commissioning communications are now reviewed daily by a designated responsible pharmacist or senior manager.
 - 2.4.2 A mandatory protocol & standard operating procedure (SOP) has been introduced, requiring all email attachments to be opened, reviewed, and actioned where appropriate.
 - 2.4.3 A structured system for tracking rotas and key dates has been introduced, with all critical dates formally recorded.
 - 2.4.4 Staff have undergone retraining to reinforce the importance of appropriately handling contractual communications.
 - 2.4.5 Clear lines of accountability have been established to ensure effective oversight of all future rota instructions.
- 2.5 These actions have been introduced to strengthen our internal controls and ensure full compliance going forward.
- 2.6 We respectfully request that and would strongly appreciate if these circumstances, together with our previous strong compliance record, could be taken into consideration, as this was an incident caused by human error which has now been fully addressed.
- 2.7 Given the above, we kindly ask that the matter be closed without any further contractual or financial action, and we would like to reassure you that steps have been put in place to ensure this does not happen again and that we remain fully committed to meeting all future obligations.
- 2.8 Thank you for your consideration.”

3 Summary of Representations

This is a summary of representations received on the appeal.

3.1 The Commissioner

- 3.1.1 “Thank you for your letter dated 6 May 2026. The East Midlands Primary Care Team (EMPCT) on behalf of Leicester, Leicestershire and Rutland Integrated Care Board would like to make the following representations.

Relevant Regulations

- 3.1.2 Regulation 71 of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (the 2013 regulations).

- 3.1.3 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:

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 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.

- 3.1.4 Since 1 April 2023, NHS England has delegated the commissioning of pharmaceutical services to integrated care boards (ICBs) and therefore such directions may be issued to pharmacy contractors by an ICB.

- 3.1.5 Leicester, Leicestershire & Rutland Integrated Care Board and Northamptonshire integrated Care Board, 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 two ICBs.

- 3.1.6 We had consulted with [Community Pharmacy Leicestershire & Rutland](#) representatives and made them aware of our intentions to propose this direction, and the rationale behind the proposal.

- 3.1.7 Contractors identified to take part in the Directed Rota for Christmas Day 25 December 2025 received a proposal to direct letter, sent on 15

May 2025, 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 to pharmacy.fj877@nhs.net.

- 3.1.8 In the email, the pharmacy was advised *'The rate of commission for this service is £350 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 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.'*
- 3.1.9 No representations were received from Brookvale Pharmacy within 30 days.
- 3.1.10 Upon completion of the 30-day representation window, a final direction letter was sent to all identified contractors to confirm they are required to provide pharmaceutical services on the day of direction.
- 3.1.11 The final direction letters for Christmas Day 25 December 2025 were sent via email on 23 June 2025, to the email pharmacy.fj877@nhs.net.
- 3.1.12 In the email, the pharmacy was advised *"To claim for opening on Christmas Day 25 December 2025, you will do so on PharmOutcomes, no later than 28 days after the directed days. 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"*.
- 3.1.13 No appeal was received by Brookvale Pharmacy Limited.
- 3.1.14 Brookvale Pharmacy, 15 Meadvale Road, Knighton, Leicester, Leicestershire, LE2 3WN (FJ877) was directed to open as below:
- 3.1.15 **Christmas Day 25 December 2025**
14:00-16:00
- 3.1.16 In addition to that, the Directed Rota for Christmas Day 2025 was also sent via email to all other contractors, LPC's and General Practitioner contracting teams within the East Midlands footprint.
- 3.1.17 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.
- 3.1.18 This reminder was sent on 29 January 2026 to the contractor at the email addresses of pharmacy.fj877@nhs.net and [redacted] and was advised *"following a data cleanse of PharmOutcomes for Christmas Day 25 December 2025, it has been identified that FJ877 Brookvale Pharmacy is yet to submit a claim for the directed hours. The 45-day claim window will close on 8 February 2026. Please can you ensure a claim is submitted for the directed hours or notify us if the pharmacy was not open on this day."*

- 3.1.19 The contractor informed The EMPCT on 29 January 2026 via email that there was no claim to be made by them as they did not open.
- 3.1.20 This was considered by the Pharmaceutical Services Regulations Committee (PSRC) at its meeting on 21 April 2026, the committee agreed that as the pharmacy had not provided pharmaceutical services on the directed day (25 December 2025), the breach of the terms of services was incapable of remedy and therefore a breach notice should be issued.
- 3.1.21 The PSRC on behalf of NHS Leicester, Leicestershire and Rutland ICB have therefore found Brookvale Pharmacy Limited, 15 Meadvale Road, Knighton, Leicester, Leicestershire, LE2 3WN to be in breach under Regulation 70, in respect of the breach of paragraph 23(1)(e), Schedule 4 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2013 as amended.
- 3.1.22 Considering the above, the East Midlands Primary Care Team submits that Brookvale Pharmacy Limited was appropriately issued with a breach notice. The contractor was properly notified of both the proposal to direct and the final direction, was afforded the opportunity to make representations and to appeal and subsequently confirmed that the pharmacy did not open during the directed hours on 25 December 2025.
- 3.1.23 I would like to take this opportunity to respond to any further representations provided by Brookvale Pharmacy Limited.

4 Observations

4.1 The Appellant

- 4.1.1 "I write on behalf of Brookvale Pharmacy Limited in relation to the above appeal.
- 4.1.2 Brookvale Pharmacy sincerely regrets the events leading to the breach notice. We recognise the importance of complying with our contractual obligations as an NHS pharmaceutical contractor and ask that this appeal be considered in light of the exceptional circumstances of this isolated incident, together with our longstanding history of compliance and commitment to patient care.
- 4.1.3 Brookvale Pharmacy has served its local community for many years and has maintained an excellent professional and contractual record, with no previous breach notices or comparable regulatory action.
- 4.1.4 The failure to open on 25 December 2025 between 14:00 and 16:00 was an isolated and unintentional incident. It resulted from an administrative error, as the email containing the pharmacy direction was misread and the requirement to open was not properly identified or escalated. We fully accept responsibility for this oversight and deeply regret the failure to fulfil our contractual obligation on that occasion.

- 4.1.5 Once the matter came to our attention, we immediately reviewed our procedures and implemented measures to prevent recurrence, including:
 - 4.1.5.1 a Standard Operating Procedure for NHS communications and directed opening notices;
 - 4.1.5.2 a mandatory process for monitoring and acknowledging NHS emails;
 - 4.1.5.3 staff retraining on contractual obligations and escalation procedures; and
 - 4.1.5.4 additional checks and accountability measures to ensure future directions are actioned appropriately.
- 4.1.6 We appreciate that the Pharmaceutical Services Regulations Committee concluded that the breach was incapable of remedy because the directed opening hours had passed. However, we respectfully ask NHS Resolution to consider the following mitigating factors:
 - 4.1.6.1 Brookvale Pharmacy's previously unblemished compliance record;
 - 4.1.6.2 the absence of any intention to breach its obligations;
 - 4.1.6.3 the fact that the failure arose from an isolated administrative oversight;
 - 4.1.6.4 our prompt acceptance of responsibility; and
 - 4.1.6.5 the comprehensive corrective actions implemented without delay.
- 4.1.7 Following the email reminder sent by the East Midlands Primary Care Team on 29 January 2026, we became aware that we had not opened during the specified period on 25 December 2025. We acted with honesty and integrity by not submitting a claim for payment for a service that had not been provided. We accurately disclosed that the pharmacy had not opened and did not seek payment to which we were not entitled. We submit that this demonstrates our commitment to transparency and professional ethics.
- 4.1.8 Brookvale Pharmacy remains fully committed to serving its patients and upholding the standards expected of NHS contractors. We respectfully request that NHS Resolution give due weight to the mitigating factors in this case and allow the appeal, recognising that this isolated incident does not reflect the values and standards consistently demonstrated by Brookvale Pharmacy throughout its NHS service.

- 4.1.9 We sincerely apologise for this unintentional breach and respectfully ask NHS Resolution to take into account our previously unblemished record, the absence of any deliberate intent, our transparency in acknowledging the error, and the corrective actions that have since been implemented. We humbly request that the appeal be allowed and that leniency be shown in respect of this isolated oversight.”

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 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:

“The final direction letters for Christmas Day 25 December 2025 were sent via email on 23 June 2025, to the email pharmacy.fj877@nhs.net .

In the email, the pharmacy was advised “To claim for opening on Christmas Day 25 December 2025, you will do so on PharmOutcomes, no later than 28 days after the directed days. 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 Brookvale Pharmacy Limited.

Brookvale Pharmacy, 15 Meadvale Road, Knighton, Leicester, Leicestershire, LE2 3WN (FJ877) was directed to open as below:

Christmas Day 25 December 2025

14:00-16:00"

- 5.7 The Breach Notice further states that on 29 January 2026 the Commissioner contacted the Appellant by email advising that a claim had not yet been made and requesting that the Appellant either submit a claim or notify it if the pharmacy was not open on the directed date. The Appellant confirmed by email dated 29 January 2026 that it had not opened on 25 December 2025.
- 5.8 The Appellant does not dispute that the emails regarding the directed hours were correctly sent to the premises specific NHSmail account. It is not disputed that the Appellant received and responded to the Commissioner's later email in January 2026. 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.
- 5.9 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 25 December 2025 (Christmas Day).
- 5.10 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.

- 5.11 I am of the view that the pharmacy would normally have been closed on the bank holiday on 25 December 2025 and that this would be in accordance with the Regulations.
- 5.12 There is no dispute that the Appellant did not open for the directed hours on 25 December 2025.
- 5.13 On appeal, the Appellant apologises for not opening and states that, following an internal review, *“...our internal processes for reviewing and acting upon such communications were not sufficiently thorough enough, and therefore misread, which resulted in the requirement to open not being properly identified or escalated within the team. Hence, regrettably losing out on the opportunity and level of remuneration that was offered for the 2 hours of opening on Christmas Day.”*
- 5.14 I note the Commissioner’s response that the Appellant *“...was appropriately issued with a breach notice. The contractor was properly notified of both the proposal to direct and the final direction, was afforded the opportunity to make representations and to appeal and subsequently confirmed that the pharmacy did not open during the directed hours on 25 December 2025.”*
- 5.15 I have not been provided with any other reason why the Appellant was unable to open on 25 December 2025. Whilst I note that the Appellant states that it has taken a number of actions to ensure that this does not happen again, which is commendable, I am of the view that the Appellant’s failure to open between 14:00 and 16:00 on 25 December 2025 is a breach of paragraph 23(1)(e) of Schedule 4 of the Regulations. I note the Appellant’s reference to its unblemished history but it would be unfair to treat the Appellant any differently to other contractors in a similar position.

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**