

OFFICIAL: SENSITIVE

25 August 2026

**REF: APL-4470 [SHA/26995]**

**APPEAL AGAINST LEICESTER, LEICESTERSHIRE  
AND RUTLAND ICB DECISION REGARDING A  
REMEDIAL NOTICE AT 24 HERMITAGE ROAD,  
LOUGHBOROUGH, LEICESTERSHIRE, LE11 4PE**

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## 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 a Remedial Notice.

A copy of this decision is being sent to:

Loughborough Pharmacy  
Leicester, Leicestershire and Rutland ICB

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## **1 The Remedial Notice**

A Remedial Notice dated 22 April 2026 was sent to Loughborough Pharmacy (“the Appellant”) in respect of Loughborough Pharmacy, 24 Hermitage Road, Loughborough, LE11 4PE. The Remedial Notice stated:

- 1.1 “Name of Contractor: RARS Private Limited
- 1.2 Address of premises: 24 Hermitage Road Loughborough Leicestershire LE11 4PE
- 1.3 Date of inclusion in the pharmaceutical list for the area of Leicestershire Health and Wellbeing Board: 1 February 2002
- 1.4 This is a Remedial Notice issued under regulation 70 of the National Health Services (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (the 2013 regulations).
- 1.5 Nature of the breach Paragraph 35(4), Schedule 4 of the 2013 regulations states that contractors must, at the request of NHS England send to NHS England by means of an electronic communication of the type specified in the request any information to which a person authorised in writing by NHS England would have access during an inspection of the pharmacy premises pursuant to paragraph 35(1), Schedule 4, if—
- 1.6 a) the contractor has that information in a form which means it may be sent by that form of electronic communication; or
- 1.7 b) it is reasonable for NHS England to request that the contractor converts that information into a form which means that it may be sent by that form of electronic communication (and NHS England does so request).

- 1.8 Since 1 April 2023, NHS England has delegated the commissioning of pharmaceutical services to Integrated Care Boards (ICBs) and therefore such requests may be made of pharmacy contractors by an ICB.
- 1.9 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.
- 1.10 The Directed Rota was created in conjunction with Leicester, Leicestershire and Rutland ICB and the Local Pharmaceutical Committee (LPC).
- 1.11 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.
- 1.12 Contractors identified to take part in the Directed Rota for Boxing Day 26 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.fkd06@nhs.net](mailto:pharmacy.fkd06@nhs.net)
- 1.13 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 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 Loughborough Pharmacy within 30 days.
- 1.14 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.
- 1.15 The final direction letters for the Boxing Day 26 December 2025 were sent via email on 23 June 2025, to the email [pharmacy.fkd06@nhs.net](mailto:pharmacy.fkd06@nhs.net).
- 1.16 In the email, the pharmacy was advised "To claim for opening on Boxing Day 26 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'.
- 1.17 No appeal was received by RARS Private Limited.
- 1.18 Loughborough Pharmacy, 24 Hermitage Road, Loughborough, LE11 4PE was directed to open as below:
- 1.19 Boxing Day 26 December 2025

1.20 14:00-16:00

- 1.21 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.
- 1.22 No response to this request for information was received and the matter was passed to the PSRC to determine the appropriate course of action to take.
- 1.23 At its meeting on 21 April 2026 the PSRC noted that the request for evidence of opening in line with the Direction was made under paragraph 35(4), Schedule 4 of the 2013 regulations. It is satisfied that the request was made to the premises specific NHSmail account for the pharmacy premises that had been directed to open. By virtue of paragraph 29C(2), Schedule 4 of the 2013 regulations, RARS Private Limited is required to ensure that at least two members of the pharmacy staff have live, linked NHSmail accounts to the premises specific NHSmail account.
- 1.24 In addition, paragraph 22C, Schedule 4 of the 2013 regulations requires RARS Private Limited to have procedures in place (as part of its standard operating procedures) for checking the premises specific NHSmail account, at appropriate intervals on the days that the pharmacy premises are open for business, whether any discharge medicines service referrals have been received.
- 1.25 The PSRC was therefore satisfied that it is reasonable to expect staff to have read and either dealt with the request or forwarded it to the appropriate person to deal with.
- 1.26 The PSRC noted that no response to the email requesting evidence that the pharmacy premises were opened in line with the Direction has been received. It is therefore satisfied that RARS Private Limited is in breach of paragraph 35(4), Schedule 4 at the above named pharmacy premises. It noted that this breach can be remedied by providing the requested information.
- 1.27 Steps you are required to take, to our satisfaction, in order to remedy the breach:
- 1.28 You must supply the PSRC with evidence to demonstrate that the pharmacy premises were open as directed. This may include the following:
- 1.28.1 A copy of the responsible pharmacist log and/or
  - 1.28.2 Receipts for the day of opening.

- 1.29 This information is to be sent to [england.eastmidspharmacy@nhs.net](mailto:england.eastmidspharmacy@nhs.net)
- 1.30 The required step must be completed by: Thursday, 21 May 2026
- 1.31 You have a right of appeal to the Secretary of State against the issuing of this remedial 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](mailto:nhsr.appeals@nhs.net) or:
- 1.32 Primary Care Appeals, NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU.
- 1.33 Please note that should you fail to comply with the requirements of this remedial 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 2013 regulations.”

## 2 The Appeal

In a letter dated 6 May 2026 addressed to NHS Resolution, the Appellant appealed against Leicester, Leicestershire and Rutland ICB (“the Commissioner”) decision. The grounds of appeal are:

- 2.1 “I am writing to formally appeal against the remedial notice issued in relation to Loughborough Pharmacy.
- 2.2 We took over the pharmacy in October 2025. We understand that communication regarding Boxing Day opening hours was issued by the East Midlands Primary Care Team; however, both the initial correspondence dated 15 May 2025 and the final direction letter dated 23 June 2025 were sent to the previous contractor’s NHS email address ([pharmacy.fkd06@nhs.net](mailto:pharmacy.fkd06@nhs.net)).
- 2.3 As ownership transferred to us in October 2025, we were not in receipt of these communications at the relevant time. We were also unable to access the previous shared NHS email, as it had become inactive due to the change of ownership and change of ODS code, and we were therefore unaware of the requirements outlined.
- 2.4 Following the change in ownership, we were issued a new ODS code and a new NHS email address ([pharmacy.fcy71@nhs.net](mailto:pharmacy.fcy71@nhs.net)), which became active in the last week of October 2025. Since then, we have ensured that all staff have NHS email accounts, and their NHS emails are linked to our new shared NHS email. We also ensure that our shared inbox is monitored regularly to prevent any such issues.
- 2.5 Given that the communications were issued several months prior to our ownership, we respectfully request that this be taken into consideration as part of our appeal against the remedial notice.
- 2.6 Please find attached the change of ownership confirmation letter and remedial notice for your reference. We would be grateful for your understanding and

consideration of our circumstances, and we kindly request that the remedial notice be reviewed accordingly.”

### 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 11th May 2026.

3.1.2 The East Midlands Primary Care Team on behalf of Leicester, Leicestershire and Rutland Integrated Care Board would like to make the following representations.

#### 3.1.3 Relevant Regulations

3.1.4 Regulation 65A - Continuity in respect of opening hours directions [The National Health Service \(Pharmaceutical and Local Pharmaceutical Services\) Regulations 2013](#)

3.1.5 Regulation 70 - Breaches of terms of service: remedial notices [The National Health Service \(Pharmaceutical and Local Pharmaceutical Services\) Regulations 2013](#)

#### 3.1.6 Background

3.1.7 Loughborough Pharmacy located at 24 Hermitage Road, Loughborough, LE11 4PE, was included in the Directed Rota for Boxing Day 26 December 2025.

3.1.8 A proposal to direct letter was issued on 15th May 2025 to the premises specific NHS mail account [pharmacy.fkd06@nhs.net](mailto:pharmacy.fkd06@nhs.net). Contractors were advised that they had 30 days in which to submit written representations should they wish to contest the proposal. No representations were received.

3.1.9 Following the conclusion of the representation period, a final direction letter was issued on 23rd June 2025 confirming that the pharmacy premises were required to open on Boxing Day 26th December 2025 between 14:00 and 16:00. The contractor was advised that claims for opening should be submitted through PharmOutcomes within the specified period and that, where no claim was received, assurance of opening would be sought. Subsequently, no claim was submitted through PharmOutcomes.

3.1.10 On 29th January 2026 the East Midlands Primary Care Team contacted [pharmacy.fcy71@nhs.net](mailto:pharmacy.fcy71@nhs.net) regarding the pending claim submission and provided the contractor with the opportunity to discuss any queries or concerns relating to the request for evidence of opening. No response was received and the matter was subsequently referred to the PSRC for consideration. At its meeting on 21st April 2026, the PSRC

determined that the contractor was in breach of paragraph 35(4), Schedule 4 of the 2013 Regulations and issued a Remedial Notice under regulation 70.

#### 3.1.11 Regulation 65A

3.1.12 The appellant states that ownership of the pharmacy changed in October 2025 and that correspondence regarding the Directed Rota had been sent to the previous contractor's NHS mail account. The PSRC considered these representations, however Paragraph 25, Schedule 4 provides that where a direction applies to pharmacy premises, regulation 65A applies to any contractor included in the pharmaceutical list in relation to those premises and not solely the contractor to whom the direction was originally issued.

3.1.13 The panel members were therefore satisfied that the obligations associated with the direction continued to apply following the change of ownership. The panel members considered that it formed part of the incoming contractor's due diligence responsibilities to ensure that all regulatory obligations associated with the pharmacy premises had been identified and appropriately managed following completion of the transfer.

#### 3.1.14 Regulation 70

3.1.15 Regulation 70 provides that where a breach is capable of remedy, the relevant authority may issue a remedial notice specifying the steps required to remedy that breach.

3.1.16 The panel members considered that the breach identified was capable of remedy through the provision of evidence demonstrating that the pharmacy premises had opened in accordance with the direction.

3.1.17 The panel members were satisfied that the issuing of a remedial notice was reasonable and proportionate in the circumstances.

#### 3.1.18 Conclusion

3.1.19 The PSRC panel members acknowledged the appellant's submissions regarding the change of ownership and the change in NHS mail arrangements following the transfer of the pharmacy business. However, the panel members were satisfied that the obligations associated with the direction continued to apply to the pharmacy premises following the transfer of ownership pursuant to paragraph 25, Schedule 4 and regulation 65A of the 2013 Regulations.

3.1.20 The panel members were therefore satisfied that the contractor failed to comply with a lawful request for information made pursuant to paragraph 35(4), Schedule 4 of the 2013 Regulations. Accordingly, the panel members concluded that the issuing of the Remedial Notice under regulation 70 was reasonable.

3.1.21 I would like to take this opportunity to respond to any further representations.”

## 4 Observations

Late observations were received from the Appellant by email dated 8 August 2026:

- 4.1 “We took over Loughborough Pharmacy on 1st October 2025. At the time of the transfer of ownership, we were not provided with, nor made aware of, any correspondence relating to the proposed Direction Letter dated 15 May 2025 or the Final Direction Letter dated 23 June 2025.
- 4.2 Following the change of ownership, the NHS email account previously used by Loughborough Pharmacy was deactivated, and a new NHS email address was subsequently issued to the pharmacy under the current ownership.
- 4.3 We therefore have no access to the previous NHS email account or to any correspondence that may have been received through that account prior to the change of ownership.
- 4.4 Accordingly, we are unable to provide copies of the aforementioned letters, as these were not brought to our attention or provided to us as part of the handover from the previous owner, and we no longer have access to the email account through which such correspondence may have been received.
- 4.5 We hope you understand the situation. Please let us know if you require any further information from us.”

## 5 Consideration

- 5.1 Under Regulation 70(1) “Breaches of terms of service: remedial notices” of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”), a remedial notice may be issued:

*70. (1) Where an NHS chemist (C) breaches a term of service and the breach is capable of remedy, NHS England may by a notice (“a remedial notice”) require C to remedy 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 The Remedial Notice was issued pursuant to Regulation 70(1) and is compliant with the requirements of a remedial 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 I note in its representations, the Commissioner states that it emailed Loughborough Pharmacy on 29 January 2026 on the email address [pharmacy.fcy71@nhs.net](mailto:pharmacy.fcy71@nhs.net) regarding the submission of the claim for opening on Boxing Day, 26 December 2025. I note that the Commissioner states "No response was received and the matter was subsequently referred to the PSRC for consideration."
- 5.7 The Remedial Notice states "*The PSRC noted that no response to the email requesting evidence that the pharmacy premises were opened in line with the Direction has been received. It is therefore satisfied that RARS Private Limited is in breach of paragraph 35(4), Schedule 4 at the above named pharmacy premises. It noted that this breach can be remedied by providing the requested information.*"
- 5.8 I have been provided with copy letters and emails dated 16 May 2025 and 23 June 2025 addressed to RARS Private Limited. I am mindful that the Appellant has not disputed they were sent or that any of the email addresses used were incorrect but I note, however, that the Appellant took over ownership of Loughborough Pharmacy in October 2025 and that their email address subsequently changed.
- 5.9 I note the Commissioner's comments that an email was sent to the updated email address: [pharmacy.fcy71@nhs.net](mailto:pharmacy.fcy71@nhs.net) requesting evidence of opening and this has not been disputed by the Appellant. I am therefore of the view that the Appellant had the opportunity to enter into local dispute resolution with the Commissioner but did not do so. 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 resolution has been exhausted I am content that I can deal with this matter.
- 5.10 The Appellant seeks to appeal against the decision of the Commissioner to issue the Remedial Notice for its failure to provide the requested information in response to the Commissioner's email dated 29 January 2026.
- 5.11 I note that the Remedial Notice refers to Schedule 4, Part 4, Paragraph 35 of the Regulations which states:

*35. Inspections and access to information ...*

*(4)P must, at the request of [NHS England], send to [NHS England]by means of an electronic communication of the type specified in the request any information to which a person authorised in writing by [NHS England]would have access during an inspection of P's pharmacy premises pursuant to sub paragraph (1), if—*

*(a)P has that information in a form which means it may be sent by that form of electronic communication; or*

*(b)it is reasonable for [NHS England]to request that P convert that information into a form which means that it may be sent by that form of electronic communication (and does so request).*

- 5.12 The Appellant, in its appeal, states, “We understand that communication regarding Boxing Day opening hours was issued by the East Midlands Primary Care Team; however, both the initial correspondence dated 15 May 2025 and the final direction letter dated 23 June 2025 were sent to the previous contractor’s NHS email address ([pharmacy.fkd06@nhs.net](mailto:pharmacy.fkd06@nhs.net)). As ownership transferred to us in October 2025, we were not in receipt of these communications at the relevant time. We were also unable to access the previous shared NHS email, as it had become inactive due to the change of ownership and change of ODS code, and we were therefore unaware of the requirements outlined.” I note that the Commissioner states that an email dated 29 January 2026 was sent to the Appellant requesting evidence that the pharmacy had opened on 26 December 2025 as directed. The Appellant has not contested this.
- 5.13 The Commissioner states in its representations that the matter was discussed at a PSRC meeting on 21 April 2026. The Commissioner noted that a change of ownership had taken place at the premises, with the Appellant assuming ownership in October 2025. The Commissioner further states:
- “Paragraph 25 of Schedule 4 provides that, where a direction applies to pharmacy premises, regulation 65A applies to any contractor included in the pharmaceutical list in relation to those premises, and is not limited to the contractor to whom the direction was originally issued. The panel members were therefore satisfied that the obligations associated with the direction continued to apply following the change of ownership. They also considered that it formed part of the incoming contractor’s due diligence responsibilities to ensure that all regulatory obligations associated with the pharmacy premises had been identified and appropriately managed following completion of the transfer.”*
- 5.14 I agree with the Commissioner that the obligations associated with the direction continued to apply following the change of ownership. It is unfortunate that the Appellant did not have sight of the earlier correspondence, however I am of the view that it was the Appellant’s responsibility on taking over the pharmacy premises to ensure it had all information it needed in order to fulfil any directions issued to the pharmacy premises.
- 5.15 There is no obligation on the Commissioner to re-issue that direction following a change of ownership given the direction applies to the pharmacy premises which continued to operate.
- 5.16 Under Regulation 70 of the Regulations, a remedial notice may be issued:

5.16.1 *“70(1) Where an NHS chemist (C) breaches a term of service and the breach is capable of remedy, the NHSCB may by a notice (“a remedial notice”) require C to remedy the breach.”*

- 5.17 The breach identified in the Remedial Notice was the Appellant's failure to provide information requested by the Commissioner under paragraph 35(4) of Schedule 4 to the Regulations. I am satisfied that this was a breach capable of remedy, as the Appellant could remedy the breach by providing the requested information.
- 5.18 At the time the Remedial Notice was issued, the Appellant had failed to provide the information requested by the Commissioner within the required timescale. As that failure was capable of remedy, I consider that it was appropriate for the Commissioner to issue a Remedial Notice requiring the Appellant to provide the requested information.

## **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 a Remedial Notice.

**Head of Appeals**  
**NHS Resolution**