

12 August 2026

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10 South Colonnade
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FILE REF: **APL-4511 (LEGACY REF: SHA/27041)**

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COMMISSIONER: **NOTTINGHAM AND NOTTINGHAMSHIRE ICB**
("the Commissioner")

PHARMACIST: **PCT HEALTHCARE LTD**
("the Appellant")

PREMISES: **PEAK PHARMACY**
49 BROOK STREET
SUTTON IN ASHFIELD
NOTTINGHAMSHIRE
NG17 1ES

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

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

1 Outcome

- 1.1 The appeal is granted and, pursuant to paragraph 25(3)(c)(ii), no direction is issued.

A copy of this decision is being sent to:

PCT Healthcare Ltd
East Midlands Primary Care Team, on behalf of Nottingham and Nottinghamshire ICB

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

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

DIRECTION OF ADDITIONAL CORE OPENING HOURS

1 Introduction

- 1.1 Relying on Paragraph 25 of Schedule 4, the Commissioner has requested that the Appellant open from 10:00 to 12:00 on 31 August 2026 (Summer Bank Holiday).
- 1.2 The Appellant seeks to appeal to NHS Resolution.

Rights of appeal

- 1.3 Where the Commissioner has directed a pharmacist to provide pharmaceutical services for its premises at set times and on set days in accordance with paragraph 25 of Schedule 4 of the Regulations, paragraph 25(7) provides a right of appeal to the Secretary of State for Health and Social Care ("the Secretary of State").

- 1.4 The Secretary of State has directed NHS Resolution to determine such appeals. As an authorised officer of NHS Resolution, I have considered the appeal and have determined it, in accordance with my delegated powers.

Opening hours

- 1.5 A pharmacy's opening hours may be categorised as:

- 1.5.1 'core' opening hours (days on and times at which the pharmacy is obliged to be open), which may incorporate a direction of the Commissioner requiring fewer or greater than 40 hours; or
- 1.5.2 'supplementary' opening hours (other days on and times at which the pharmacy undertakes to provide pharmaceutical services, as notified to the Commissioner).

Alteration of 'core' (including 'directed') opening hours

- 1.6 In accordance with paragraph 1(7)(c) of Schedule 2 to the Regulations, the pharmacy must provide, as part of an application for entry in the pharmaceutical list, the proposed core opening hours in respect of the premises during which it will be obliged to provide pharmaceutical services under paragraph 23(1) of Schedule 4 to the Regulations. These may be subject to a direction under paragraph 23(1)(c), (d) or (e).

Alteration of 'supplementary' opening hours

- 1.7 Other days or times at which services are to be provided (as set out in the original application for entry in the pharmaceutical list pursuant to paragraph 23(3) of Schedule 4 as "supplementary hours") may be altered by giving notice to the Commissioner, in accordance with paragraph 23(6)(a) without the need to make an application.
- 1.8 Notices under paragraph 23(6)(a) are not subject to review by NHS Resolution.

2 The Direction

In a letter to the Appellant dated 15 May 2026, the Commissioner stated:

- 2.1 "Pharmacies are not required by their terms of service to open on Christmas Day, Good Friday, Easter Sunday or on a bank holiday, although they may choose to do so. I can confirm that we have not been notified of any pharmacies that will be open in Ashfield on Summer Bank Holiday 31 August 2026, and no pharmacies have volunteered to open on this day.
- 2.2 Under section 126 of the NHS Act 2006 (Arrangements for pharmaceutical services), NHS England (now delegated to the ICBs) must make arrangements for the provision, to persons 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.”

2.3 In light of the fact no pharmacies will be open on Summer Bank Holiday 31 August 2026, NHS Nottingham and Nottinghamshire ICB is of the opinion that the needs of people in its area or other likely users of pharmacy premises for pharmaceutical services will not be met on this day.

2.4 NHS Nottingham and Nottinghamshire ICB has therefore considered what arrangements need to be put in place on Summer Bank Holiday 31 August 2026 in order to discharge this duty. We are of the opinion that whilst demand for the full range of pharmaceutical services may be lower on this day compared to a day that is not a bank or public holiday, there will still be a need for pharmaceutical services by people who live within Ashfield or are visiting the area. Whilst GP practices will be closed on Summer Bank Holiday 31 August 2026, other providers of NHS services will be open to treat patients, such as the GP out of hours service and A&E departments.

2.5 We believe that, as a minimum, the services for which there will be a need on Summer Bank Holiday are as follows.

2.5.1 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.

- 2.5.2 The Pharmacy First service for the urgent supply of repeat medicines, referrals from NHS111 for low acuity, minor illnesses or under one of the clinical pathways.
- 2.5.3 The NHS pharmacy contraception advanced service, particularly as it is being expanded to include the provision of emergency contraception from October 2025.
- 2.6 Of course, some people may wish to access other essential and advanced services. As stated above, we are not aware of any pharmacies that will be open on Summer Bank Holiday 31 August 2026 and therefore at present the ICB is unable to discharge the duty as set out in section 126 of the NHS Act 2006.
- 2.7 We have consulted with Community Pharmacy Nottinghamshire representatives and made them aware of our intentions to issue this direction, and the rationale behind the proposal. Community Pharmacy Nottinghamshire are in support of the need to ensure adequate pharmaceutical provision on Summer Bank Holiday 31 August 2026 and are willing to provide guidance to contractors on this direction. The contact email address of Community Pharmacy Nottinghamshire should you wish to contact them is chiefofficer@nottinghamshireipc.co.uk.
- 2.8 We informed your pharmacy that our team was conducting an assessment as to whether to issue a direction pursuant to paragraph 25(1) of Schedule 4 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended. The pharmacy was issued with a proposal to direct letter which was sent on Wednesday 1 April 2026 to the email address we have on file for your pharmacy, pharmacy.fph67@nhs.net.
- 2.9 This assessment has now concluded, and our team have not received any representations on your behalf, therefore we are now issuing the pharmacy with the enclosed direction.
- 2.10 Your core opening hours on **Summer Bank Holiday 31 August 2026** are therefore: **10:00 – 12:00**
- 2.11 The reasons for directing the above pharmacy to open are:
- 2.11.1 There is a need to provide pharmaceutical services in Ashfield where there is currently no provision on Summer Bank Holiday 31 August 2026.
- 2.11.2 There has been no voluntary offer of pharmacy provision in Ashfield to meet the needs of people living in the area on Summer Bank Holiday 31 August 2026.
- 2.11.3 Your pharmacy is located in proximity to an urgent treatment centre, Kings Mill Hospital. 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/bank 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 your pharmacy, reducing unnecessary attendance at the urgent treatment centre and enabling focus on patients with the most urgent need.

2.11.4 Your pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within NHS Nottingham and Nottinghamshire which has been identified as deprived, 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 Nottingham and Nottinghamshire 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.

2.12 The level of remuneration for Summer Bank Holiday 31 August 2026, will be £275 per hour for a maximum of 2 hours. Please ensure that you submit a claim for opening through PharmOutcomes within 28 calendar days of the directed day. If this is not claimed within 28 calendar days, our team will issue a final reminder and you will have a further 17 calendar days to submit a claim (within 45 calendar days of the directed day). Please note that claims submitted outside of this 45-calendar day deadline will not be paid. If you anticipate any difficulties in submitting the claim, please contact our team via england.eastmidsparmacy@nhs.net at your earliest convenience. If no claim is made, this will be investigated by NHS Nottingham and Nottinghamshire ICB in order to establish whether or not there has been a breach of the terms of service.

2.13 Please ensure that you update the pharmacy's profile on the NHS England directory of service (DOS) and NHS.UK using profile manager with the hours that you are being directed to open.

2.14 You have the right of appeal to the Secretary of State against our decision. Should you choose to appeal, then you should send in writing a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to: nhsr.appeals@nhs.net or

2.15 Primary Care Appeals Case Manager
NHS Resolution
8th Floor 10 South Colonnade,
Canary Wharf,
London,
E14 4PU

2.16 If you have any questions, please do not hesitate to contact me."

3 The Appeal

In a letter to NHS Resolution dated 8 June 2026 the Appellant appealed against the Commissioner's decision. The grounds of appeal are:

- 3.1 “Further to a direction of core opening hours received in a full direction letter for the above pharmacy to open on 31 August 2026 at 10:00 until 12:00, PCT Healthcare Limited writes to appeal to the Primary Care Appeals Unit.
- 3.2 PCT Healthcare Limited are aware of the need for adequate pharmaceutical services provision. However, we feel that this particular direction has not been based on adequate research and reasoning by East Midlands Primary Care Team (EMPCT).
- 3.3 There is no detail within the letter from the EMPCT, as it is generic, to indicate the reasons as to how or why this direction supports an assessment which concluded the pharmaceutical needs of the relevant persons (our patients) will not be met on this day that we are required to open our pharmacy, FPH67 in the Sutton in Ashfield area.
- 3.4 Under Schedule 4 paragraph (25)(6)(a) of the NHS Pharmaceutical and LPS Regulations NHS England must include with the notification a statement of “the reasons for the change”. We note that the Regulations envisage the reasons for the direction should be based on the results of an assessment, which followed a consultation, which should conclude with the needs of the local population and likely users of our pharmacy not being met on this day such that we are required to open from 10:00 until 12:00 on 31 August 2026.
- 3.5 In particular, the letter received makes no reference to any specific results linking our pharmacy to any lack of service provision on 31 August 2026. Furthermore, there is no actual details of the findings of a consultation or assessment, and therefore no reasons behind the direction which is contrary to paragraph 25(1) and 25(6) of Schedule 4.
- 3.6 With regards to the assessment mentioned, where are the results of this assessment, why have they not been shared with contractors in our locality, and in particular our pharmacy FPH67.
- 3.7 In addition, where are the minutes of the engagement with Community Pharmacy Nottingham and the ICB with reference to pharmaceutical provision on 31 August 2026.
- 3.8 **Hospitals & Urgent treatment centres**
- 3.9 PCT Healthcare Limited has reviewed pharmacies close to the A&E department in Mansfield located at King’s Mill Hospital, Mansfield Road, Sutton in Ashfield, NG17 4JL where patients are advised to access healthcare on Bank Holidays when their GP Surgeries are closed.
- 3.10 With regards to our pharmacy location within Sutton-in-Ashfield there are 10 community pharmacies located closer or equidistant to the A & E Department of Kings Mill Hospital NG17 4JL according to NHS.uk. [Find a pharmacy - NHS](#) (details below).
- 3.11 As there are 11 other pharmacies closer or equidistant to the Kings Mill Hospital, why specifically was our pharmacy FPH67 selected to be directed to open on 31 August 2026 when there shall be limited public transport from the

site where the A&E department is located in Mansfield at a distance of 2.1 miles away?

Name	Postcode	Distance (miles from Google maps)
Kings Mill Hospital	NG17 4JL	Hospital A&E & Minor Injuries Unit 0 miles
Peak Pharmacy	NG17 4PD	1.0
Peak Pharmacy	N18 5JP	1.6
Orchard Pharmacy	NG18 5GG	1.4
Asda Pharmacy	NG17 2AH	1.6
Boots Pharmacy	NG17 1BN	1.9
Superdrug Pharmacy	NG17 1BP	1.8
Peak Pharmacy	NG17 1AT	2.1
Peak Pharmacy	NG18 1QL	1.7
Mansfield Delivery Chemist	NG18 1QB	1.7
Boots	NG18 1BE	2.3
Rosemary Street Pharmacy	NG19 6AB	2.1
Boots	NG18 1SU	2.0
Peak Pharmacy (FPH67)	NG17 1ES	2.1
Tesco Instore Pharmacy	NG19 7TS	2.3

- 3.12 PCT Healthcare Limited fails to see how this direction letter together with the proposal letter dated 1 April 2026 letter gives sufficient evidence to meet the requirements of Schedule 4 paragraph (25)(6)(a) of the NHS Pharmaceutical and LPS Regulations NHS England, that our pharmacy FPH67 is required to open on Summer Bank Holiday, 31 August 2026 rather than any of the other pharmacies within Sutton in Ashfield.
- 3.13 Our pharmacy is located 2.1 miles by road from King's Mill Hospital, Mansfield Road, Sutton in Ashfield, NG17 4JL, there will be only limited bus provision on Summer Bank Holiday the time for the journey between the hospital and our pharmacy is between 19 - 24 minutes one way. For carers with poorly children a round trip of approximately 30-50 minutes, is too long.

- 3.14 Additionally, this time does not take into account the limited service and how long patients would be waiting to return to Sutton in Ashfield via Public Transport. [Map provided]
- 3.15 **Deprivation details for pharmacies closer & equidistant to Kings Mill Hospital**
- 3.16 PCT Healthcare Limited has completed a review of the pharmacies located close to the Kings Mill Hospital, Sutton in Ashfield Road, Sutton-in-Ashfield NG17 4JL, where the A&E department is located regarding the IMD for their postcodes.
- 3.17 This is a map from Postcode IMD Decile Mapper 2025 – IMD2025 indicating the locations of the pharmacies identified within the table closer to the A&E department at Kings Mill Hospital NG17 4JL. All the blue dots are pharmacies which are closer or equidistant to the hospital than our pharmacy. [Map provided]
- 3.18 Table from [What Is an IMD Decile? | IMD 2025 Explainer](#)

“This means:

Decile	Position in England	Meaning
1	Most deprived ten percent	Areas with the highest levels of deprivation
2	Ten to twenty percent most deprived	Areas still facing relatively high deprivation
3 to 8	Middle groups	Areas around or slightly above or below the England average
9	Ten to twenty percent least deprived	Areas with relatively low deprivation
10	Least deprived ten percent	Areas with the lowest levels of deprivation”

- 3.19 Decile 1 represents the 10% most deprived areas in England.
- 3.20 This is a table from [Postcode IMD Decile Mapper 2025 – IMD2025](#) for the pharmacies closer or equidistant to the Kings Mill Hospital in Mansfield.

	A	B	C	D	E	F	G	H
1	Name	Postcode	Distance to Hospital (miles)	PCD sector	LSOA code	LSOA name	IMD decile	Health
2	Kings Mill Hospital	NG17 4JL	0	NG174	E01027985	Ashfield 004E	5	2
3	Peak Pharmacy	NG17 4PD	1	NG174	E01027984	Ashfield 002D	6	5
4	Peak Pharmacy	N18 5JP	1.6	NG185	E01028248	Mansfield 010F	3	3
5	Orchard Pharmacy	NG18 5GG	1.4	NG185	E01028268	Mansfield 008D	2	2
6	Asda Pharmacy	NG17 2AH	1.6	NG172	E01027965	Ashfield 005B	1	2
7	Boots Pharmacy	NG17 1BN	1.9	NG171	E01027965	Ashfield 005B	1	2
8	Superdrug Pharmacy	NG17 1BP	1.8	NG171	E01027968	Ashfield 005C	1	1
9	Peak Pharmacy	NG17 1AT	2.1	NG171	E01027976	Ashfield 005E	2	1
10	Peak Pharmacy	NG18 1QL	1.7	NG181	E01028284	Mansfield 008F	2	1
11	Mansfield Delivery Chemist	NG18 1QB	1.7	NG181	E01028284	Mansfield 008F	2	1
12	Boots Pharmacy	NG18 1BE	2.3	NG181	E01028268	Mansfield 008D	2	2
13	Rosemary Street Pharmacy	NG19 6AB	2.1	NG196	E01028227	Mansfield 008A	1	2
14	Boots Pharmacy	NG18 1SU	2	NG181	E01028284	Mansfield 008F	2	1
15	Peak Pharmacy (FPH67)	NG17 1ES	2.1	NG171	E01027976	Ashfield 005E	2	1
16	Tesco Instore Pharmacy	NG19 7TS	2.3	NG197	E01028284	Mansfield 008F	2	1

- 3.21 The shaded pharmacies of which there are 5 in column G of the table, are all in LSOA areas with the same or a lower overall Index of Multiple Deprivation Decile (IMD) than our pharmacy FPH67, all of these pharmacies are located closer or equidistant to the A&E department of the Kings Mill Hospital in Mansfield.
- 3.22 Additionally, considering column H, the Health and Disability Rank there are 5 pharmacies which are located in areas with the same Health and Disability Ranking compared to our pharmacy located at 49 Brook Street, Sutton-in-Ashfield, Nottinghamshire NG17 1ES (FPH67), all of these pharmacies are located closer or equidistant to the A&E department in Sutton in Ashfield.
- 3.23 There is one pharmacy within a Sutton in Ashfield LSOA (Ashfield 005C) with higher levels of deprivation for both the Index of Multiple Deprivation Rank and Health and Disability Rank, than our pharmacy. PCT Healthcare Limited submits that it is better to have pharmaceutical provision in this area on a Bank Holiday, than to direct FPH67.
- 3.24 [Repeat of table at 3.20]
- 3.25 PCT Healthcare Limited has proved that FPH67, compared to other nearby pharmacies, is not located in a more deprived area according to Indices of Multiple Deprivation (IMD) or the Health and Disability decile as provided from the Ministry of Housing Communities & Local Government – English indices of deprivation.
- 3.26 Nor is FPH67 a pharmacy located close to Kings Mill Hospital in Mansfield.
- 3.27 In conclusion, our pharmacy has received this direction, however for the reasons discussed above we do not feel it has been made clear as to why our pharmacy, in particular, has been chosen to open on 31 August 2026, as opposed to another pharmacy in the Sutton in Ashfield area.”

4 Representations

In a letter to NHS Resolution dated 8 July 2026 the Commissioner stated:

- 4.1 “Thank you for your letter notifying us that Peak Pharmacy (FPH67) has appealed against NHS Nottingham and Nottinghamshire Integrated Care Board's (ICB) decision to direct the pharmacy to open on Summer Bank Holiday, Monday 31st August 2026 between 10:00 and 12:00.
- 4.2 It is noted that Peak Pharmacy (FPH67) has appealed the direction on the following grounds:
 - 4.2.1 There is insufficient detail within the direction letter explaining how the assessment concluded that pharmaceutical needs would not be met on 31st August 2026 and why FPH67 was selected.

- 4.2.2 The direction letter does not provide sufficient detail regarding the assessment, consultation process, or findings relied upon when issuing the direction.
- 4.2.3 Other pharmacies are located closer to, or equidistant from, King's Mill Hospital and therefore it is unclear why FPH67 was selected for direction.
- 4.2.4 The deprivation and health inequality rationale does not demonstrate that FPH67 is uniquely placed to provide pharmaceutical services compared to other nearby pharmacies.
- 4.3 NHS Nottingham and Nottinghamshire ICB, acting under delegated authority from NHS England, exercised its functions under Schedule 4, Part 3, Paragraph 25 of the NHS (Pharmaceutical Services and Local Pharmaceutical Services) Regulations 2013 (as amended) to direct a pharmacy contractor to open where it was satisfied that pharmaceutical needs would not otherwise be met.
- 4.4 The Regulations state:

"(6) The NHSE must notify P of any direction issued or any other action taken under sub-paragraph (3), and where it sets new days on which or times at which P is to provide pharmaceutical services at 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)."
- 4.5 As you will be aware, pharmacies are not required under their terms of service to open on Bank Holidays, although they may choose to do so voluntarily.
- 4.6 NHS Nottingham and Nottinghamshire ICB requested information from pharmacy contractors regarding their intentions for opening during the 2026 Bank Holiday periods. Following receipt and review of contractor responses, it was identified that insufficient pharmaceutical provision would be available within parts of the Sutton-in-Ashfield locality on Summer Bank Holiday, 31st August 2026.
- 4.7 Under Schedule 4, Part 3, Paragraph 25(1) of the NHS (Pharmaceutical Services and Local Pharmaceutical Services) Regulations 2013 (as amended), where NHS England (delegated to ICBs) is satisfied that the pharmaceutical needs of people in its area, or other likely users of pharmacy services, would not be met on a day that is a bank holiday, it may determine revised opening arrangements and direct a contractor to provide services during specified hours.
- 4.8 Following receipt and review of contractor opening intentions for the Summer Bank Holiday period, NHS Nottingham and Nottinghamshire ICB assessed the availability of pharmaceutical provision across the locality and considered whether the pharmaceutical needs of people in the area, and other likely users of pharmacy services, would be adequately met on 31st August 2026.

- 4.9 As part of the Bank Holiday planning process, NHS Nottingham and Nottinghamshire ICB also consulted with the Local Pharmaceutical Committee (LPC) regarding the proposed Bank Holiday opening arrangements. Details of the proposed directed opening arrangements, including the pharmacies identified for direction, were shared with the LPC for comment. Following this consultation, the LPC confirmed that it had no objections to the proposed directions, and the ICB took this into account before issuing the final directions to contractors.
- 4.10 The assessment concluded that additional pharmaceutical provision was required within the Sutton-in-Ashfield locality to ensure appropriate access to NHS pharmaceutical services during the Bank Holiday period.
- 4.11 An assessment was undertaken across pharmacies within the relevant locality to determine the most appropriate arrangements for pharmaceutical provision on Summer Bank Holiday, 31st August 2026. In undertaking this assessment, the ICB considered a range of factors including the availability of alternative pharmaceutical provision, the geographical distribution of pharmacies across Sutton-in-Ashfield and surrounding communities, accessibility for local residents, levels of deprivation and health inequality, and the need to ensure fair and equitable access to pharmaceutical services across the locality.
- 4.12 FPH67 was identified as an appropriate pharmacy to provide pharmaceutical services during the directed opening period following consideration of these factors. The assessment was not based solely on proximity to King's Mill Hospital, nor does the regulatory framework require directions to be issued based on distance from an emergency department alone.
- 4.13 Whilst other pharmacies may be located closer to, or equidistant from, King's Mill Hospital, proximity to the hospital was not the determining factor in the selection of FPH67. The location of urgent care providers and acute hospital services formed part of the assessment process; however, the relevant consideration under Schedule 4, Paragraph 25 of the Regulations is whether the pharmaceutical needs of people in the area, or other likely users of pharmacy services, would be met. The ICB therefore considered the overall accessibility and distribution of pharmaceutical services across the locality, rather than focusing solely on distance from an emergency department or acute hospital.
- 4.14 As part of the assessment process, the ICB considered deprivation information alongside a range of other factors.
- 4.15 The purpose of considering deprivation indicators is not to identify a single pharmacy with the highest deprivation score, but to ensure that pharmaceutical services remain accessible to communities experiencing health inequalities and increased healthcare needs.
- 4.16 The fact that other pharmacies may also be located within areas of deprivation does not invalidate the assessment or the rationale for direction. Rather, deprivation forms one element of the overall assessment process used to determine suitable service coverage across the locality.

4.17 The ICB considered deprivation data alongside pharmacy distribution, accessibility, population need and service availability before determining that Peak Pharmacy should be directed.

4.18 **Conclusion**

4.19 Having considered all relevant factors, NHS Nottingham and Nottinghamshire ICB remains satisfied that directing Peak Pharmacy (FPH67) to open from 10:00 to 12:00 on 31st August 2026 was reasonable and necessary to ensure that the pharmaceutical needs of people in the area, and other likely users of pharmacy services, would be met in accordance with Schedule 4, Part 3, Paragraph 25 of the NHS (Pharmaceutical Services and Local Pharmaceutical Services) Regulations 2013 (as amended).

4.20 I would like to take this opportunity to respond to any further representations provided by PCT Healthcare.”

5 **Observations**

In a letter to NHS Resolution dated 13 July 2026 the Appellant stated:

5.1 “Thank you for your email including the representations from East Midlands Primary Care Team (EMPCT) on behalf of NHS Nottingham and Nottinghamshire ICB dated 10 July 2026.

5.2 PCT Healthcare Limited shall consider each of the points from the representations in turn.

5.3 **ICB Assessment page 2**

5.4 *“The assessment concluded...”*

5.5 From our appeal letter:

5.6 Under Schedule 4 paragraph (25)(6)(a) of the NHS Pharmaceutical and LPS Regulations NHS England must include with the notification a statement of “the reasons for the change”. We note that the Regulations envisage the reasons for the direction should be based on the results of an assessment, which followed a consultation, which should conclude with the needs of the local population and likely users of our pharmacy not being met on this day such that we are required to open on 31 August 2026.

5.7 In particular, the letter received makes no reference to any specific results linking our pharmacy to any lack of service provision on 31 August 2026. Furthermore, there is no actual details of the findings of a consultation or assessment, and therefore no reasons behind the direction which is contrary to paragraph 25(1) and 25(6) of Schedule 4.

5.8 *“An assessment was undertaken...”*

5.9 With regards to the “assessment” mentioned within this paragraph where are the results of this assessment, why have they not been shared with contractors in the Sutton-in-Ashfield locality, and in particular our pharmacy FPH67?

- 5.10 Furthermore, there is no actual details of the findings of a consultation or assessment, and therefore no reasons behind the direction which is contrary to paragraph 25(1) and 25(6) of Schedule 4.
- 5.11 **Distance to out of hours providers.**
- 5.12 Additionally on page 2 of the representations.
- 5.13 *“Whilst other pharmacies may be located closer...”*
- 5.14 From our appeal letter, PCT Healthcare Limited reviewed pharmacies closer to the A&E department located at King’s Mill Hospital, Mansfield Road, Sutton in Ashfield, NG17 4JL where patients are advised to access healthcare on Bank Holidays when their GP Surgeries are closed.
- 5.15 With regards to our pharmacy location within Sutton-in-Ashfield there are 11 community pharmacies located closer or equidistant to the A & E Department of Kings Mill Hospital located at postcode NG17 4JL according to NHS.uk. [Find a pharmacy - NHS](#) (from our appeal letter dated 8 June 2026).
- 5.16 Our pharmacy is located 2.1 miles by road from King’s Mill Hospital, Mansfield Road, Sutton in Ashfield, NG17 4JL, there will be only limited bus provision on Summer Bank Holiday the time for the journey between the hospital and our pharmacy is between 19 - 24 minutes one way. For carers with poorly children a round trip of approximately 30-50 minutes, is too long.
- 5.17 Additionally, this time does not take into account the limited service and how long patients would be waiting to return to Sutton in Ashfield via Public Transport.

Pharmacy Name	Postcode	Distance to town centre – Idlewells Centre (miles)	LSOA code	LSOA name	IMD decile
Boots	NG17 1BN	0	E01027965	Ashfield 005B	1
Superdrug	NG17 1BP	0	E01027968	Ashfield 005C	1
Asda	NG17 2AH	0.3	E01027965	Ashfield 005B	1
Peak	NG17 1AT	0.5	E01027976	Ashfield 005E	2
Peak (FPH67)	NG17 1ES	0.5	E01027976	Ashfield 005E	2
Peak	NG17 4PD	1.1	E01027984	Ashfield 002D	6

- 5.18 **Accessibility**
- 5.19 “From page 3 of the representations.
- 5.20 *“...Regulations is whether...”*

- 5.21 Where is the town centre of Sutton-in-Ashfield? According to Discover Ashfield the Sutton-in-Ashfield town centre is located within the Idlewells Shopping Centre. Website = [Map | Discover Ashfield](#) (Green map point with circle) [map provided]
- 5.22 The directed pharmacy FPH67 is located at 49 Brook Street 0.5 miles from the town centre, Brook Street itself is not a town centre location, it is a sparsely populated “business street” the leisure centre adjacent to the pharmacy shall be closed, as shall the other businesses based on Brook Street on the Summer Bank Holiday, pedestrian numbers will be limited.
- 5.23 Below is a photo of Brook Street towards Sutton-in-Ashfield. [Photograph provided]
- 5.24 There shall be businesses including a National supermarket chain community pharmacy open in the town centre of Sutton-in-Ashfield, Asda Supermarket shall be open on Monday 31 August 2026.
- 5.25 The Asda has a large free carpark and is well used within the town. This pharmacy is close to McDonalds which will also be open and frequented by Sutton-in-Ashfield citizens.
- 5.26 The Asda supermarket website indicates this information: website = [Asda Sutton in Ashfield Superstore Sutton in Ashfield: in Sutton-In-Ashfield](#), [Screenshots provided]
- 5.27 *“Our Asda Pharmacies are open 7 days a week, including late evenings and bank holidays, to provide a variety of healthcare services to help support your health and wellbeing.”*
- 5.28 There is also another Asda Pharmacy located at ASDA Mansfield, Old Mill Lane, Mansfield NG19 0HA which will also be open and trading on this Bank Holiday.
- 5.29 **Deprivation Index (page 3)**
- 5.30 PCT Healthcare Limited t/a Peak Pharmacy has already considered the deprivation index of pharmacies closer to Kings Mill Hospital where the A&E Department and minor injuries unit is located in our Appeal letter.
- 5.31 We shall now consider the pharmacies within Sutton-in-Ashfield:
- | | | |
|------|-------------|--------------------|
| 5.32 | Name | Postcode |
| 5.33 | Asda | NG17 2AH |
| 5.34 | Peak | NG17 4PD |
| 5.35 | Boots | NG17 1BN Idlewells |
| 5.36 | Superdrug | NG17 1BP Idlewells |
| 5.37 | Peak | NG17 1AT |

5.38 Peak NG17 1ES

5.39 These pharmacies are shown by the blue dots on the map below, our pharmacy is located on the bottom left of the map, outside the town centre.[Map provided]

Pharmacy Name	Postcode	Distance to town centre – Idlewells Centre (miles)	LSOA code	LSOA name	IMD decile
Boots	NG17 1BN	0	E01027965	Ashfield 005B	1
Superdrug	NG17 1BP	0	E01027968	Ashfield 005C	1
Asda	NG17 2AH	0.3	E01027965	Ashfield 005B	1
Peak	NG17 1AT	0.5	E01027976	Ashfield 005E	2
Peak (FPH67)	NG17 1ES	0.5	E01027976	Ashfield 005E	2
Peak	NG17 4PD	1.1	E01027984	Ashfield 002D	6

5.40 FPH67 is not in the most deprived area of Sutton-in-Ashfield, it is those pharmacies who are located closer to the town centre who have a lower Deprivation Index by 10% (those with an IMD decile of 1).

5.41 Conclusion

5.42 Why was our pharmacy directed to open over any other in Sutton-in-Ashfield on 31st August 2026, where is the evidence from the assessment completed by East Midlands PCT?

5.42.1 Pharmaceutical provision - there is an open pharmacy on Summer Bank Holiday 31 August 2026 in Sutton-in-Ashfield

5.42.2 Accessibility – FPH67 pharmacy is not located within the town centre within Sutton-in-Ashfield, nor is it located in the area where the citizens of Sutton-in-Ashfield shall frequent as there are large retailers open on the Bank Holiday.

5.42.2.1 FPH67 is not located closest to the out-of-hours prescribing provision at Kings Mill Hospital there are 11 community pharmacies located closer or equidistant to the A & E Department.

5.42.3 Deprivation data – FPH67 pharmacy is not located within the lowest deprived area within Sutton-in-Ashfield, three pharmacies are in a more deprived area.

5.43 In conclusion, our pharmacy has received this direction, however for the reasons discussed above we do not feel it has been made clear as to why our pharmacy has been chosen to open on Summer Bank Holiday 2026, as opposed to another pharmacy in Sutton-in-Ashfield.”

6 Assessment

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

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

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

- (b) *if P has appealed under sub-paragraph (7), not later than 8 weeks after the date on which P receives notification under sub-paragraph (9).*

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

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

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

6.3 I am of the view that the pharmacy would normally be closed on 31 August 2026, Summer Bank Holiday, and that this would be in accordance with the Regulations.

6.4 Although I have not been provided with a copy of the consultation with the LPC, the Commissioner, in its direction letter confirms that a consultation took place with Community Pharmacy Nottinghamshire, although the Appellant in its appeal queries *“where are the minutes of the engagement with Community Pharmacy Nottingham and the ICB with reference to pharmaceutical provision on 31 August 2026.”* I note that the Commissioner states that it sent the Appellant a proposal to direct letter under cover of an email dated 1 April 2026, although I have not been provided with a copy of the letter.

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

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

6.7 The direction letter stated:

“We believe that, as a minimum, the services for which there will be a need on Summer Bank Holiday are as follows.

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.

The Pharmacy First service for the urgent supply of repeat medicines, referrals from NHS111 for low acuity, minor illnesses or under one of the clinical pathways.

The NHS pharmacy contraception advanced service, particularly as it is being expanded to include the provision of emergency contraception from October 2025.”

6.8 And further that:

“There is a need to provide pharmaceutical services in Ashfield where there is currently no provision on Summer Bank Holiday 31 August 2026.

There has been no voluntary offer of pharmacy provision in Ashfield to meet the needs of people living in the area on Summer Bank Holiday 31 August 2026.

Your pharmacy is located in proximity to an urgent treatment centre, Kings Mill Hospital. 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/bank 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 your pharmacy, reducing unnecessary attendance at the urgent treatment centre and enabling focus on patients with the most urgent need.

Your pharmacy is also identified as being located within, or close to, a Middle Layer Super Output Area (MSOA) within NHS Nottingham and Nottinghamshire which has been identified as deprived, 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 Nottingham and Nottinghamshire 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.”

- 6.9 The Appellant describes the above as “generic” and that “the letter received makes no reference to any specific results linking our pharmacy to any lack of service provision on 31 August 2026” and further that “there is no actual details of any findings of a consultation or assessment ...”.
- 6.10 I note the Appellant’s undisputed comments in relation to its location within Sutton in Ashfield; that there are 11 community pharmacies “located closer or equidistant to the A & E department of Kings Mill Hospital NG17 4JL” and “...why specifically was our pharmacy FPH67 selected to be directed to open on 31 August 2026 when there shall be limited public transport from the site where the A&E department is located in Mansfield at a distance of 2.1 miles away?”
- 6.11 In its representations, the Commissioner goes on to explain further the reasoning behind the direction and the assessment that was carried out. The Commissioner states “... The assessment was not based solely on proximity to King’s Mill Hospital, nor does the regulatory framework require directions to be issued based on distance from an emergency department alone” and further that “Whilst other pharmacies may be located closer to, or equidistant from,

King's Mill Hospital, proximity to the hospital was not the determining factor in the selection of FPH67. The location of urgent care providers and acute hospital services formed part of the assessment process; however, the relevant consideration under Schedule 4, Paragraph 25 of the Regulations is whether the pharmaceutical needs of people in the area, or other likely users of pharmacy services, would be met. The ICB therefore considered the overall accessibility and distribution of pharmaceutical services across the locality, rather than focusing solely on distance from an emergency department or acute hospital."

- 6.12 I note the Appellant's pharmacy is 2.1 miles away by road from the key source of prescriptions and I am mindful that public transport is likely to be limited on a Bank Holiday although this would be the case for any pharmacy located in Sutton in Ashfield. However, I am of the view that distance is only one factor which the Commissioner should take into account.
- 6.13 I note the Applicant's undisputed comments that *"...there are 5 pharmacies which are located in areas with the same Health and Disability Ranking compared to our pharmacy located at 49 Brook Street, Sutton-in-Ashfield, Nottinghamshire NG17 1ES (FPH67), all of these pharmacies are located closer or equidistant to the A&E department in Sutton in Ashfield."* and further that *"There is one pharmacy within a Sutton in Ashfield LSOA (Ashfield 005C) with higher levels of deprivation for both the Index of Multiple Deprivation Rank and Health and Disability Rank, than our pharmacy. PCT Healthcare Limited submits that it is better to have pharmaceutical provision in this area on a Bank Holiday, than to direct FPH67."*
- 6.14 In response, the Commissioner states *"The purpose of considering deprivation indicators is not to identify a single pharmacy with the highest deprivation score, but to ensure that pharmaceutical services remain accessible to communities experiencing health inequalities and increased healthcare needs. The fact that other pharmacies may also be located within areas of deprivation does not invalidate the assessment or the rationale for direction. Rather, deprivation forms one element of the overall assessment process used to determine suitable service coverage across the locality."*
- 6.15 I have had regard to those pharmacies highlighted by the Appellant in the appeal as being in the same or lower overall index of multiple deprivation decile. Whilst most of these are closer to the Kings Mill Hospital than the Appellant's pharmacy, I do not consider that the difference in distance is particularly significant. I have also noted the information provided by the Appellant regarding pharmacies in the town centre which have a lower deprivation index, including Asda Pharmacy which will be open on the Summer Bank Holiday.
- 6.16 I note the Appellant questions in its observations; *"Why was our pharmacy directed to open over any other in Sutton-in-Ashfield on 31st August 2026, where is the evidence from the assessment completed by East Midlands PCT?"* I note the Commissioner states that it *"...considered deprivation data alongside pharmacy distribution, accessibility, population need and service availability before determining that Peak Pharmacy should be directed."* Whilst the Commissioner has responded to the Appellant's points regarding the distance

to a key source of prescriptions and levels of deprivation, I note that I have not been provided with any information to evidence the Commissioner's assessment regarding the other factors that it considered. I do not consider that the Commissioner has provided sufficient information to demonstrate that it has undertaken a robust assessment of the need for pharmaceutical services in terms of providing services to patients nor why the Appellant's pharmacy will be best placed in terms of access and geography to meet the envisaged demand for services.

- 6.17 On appeal, I may (in accordance with paragraph 25(8) of Schedule 4) either confirm the action of the Commissioner or take such other action as it could have taken.
- 6.18 The decision letter dated 15 May 2026 and the Commissioner's representations do not provide me with information which I consider sufficient to provide reasons on the basis of which I can confirm the decision, nor information upon which I might rely to make a direction for alternative reasons.
- 6.19 The letters explain the process which has taken place and the conclusions reached, but not the reasoning that lies behind the direction.
- 6.20 On the basis of the information available to me, I am not satisfied that the Commissioner has demonstrated that the needs of people in its area or other likely users of the pharmacy for pharmaceutical services will not be met on 31 August 2026.

7 Determination

- 7.1 The appeal is granted and, pursuant to paragraph 25(3)(c)(ii), no direction is issued.

Head of Appeals
NHS Resolution