

The London Clinic

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## **The London Clinic's breach of The Private Healthcare Market Investigation Order 2014**

I am writing to you on behalf of the CMA regarding The London Clinic's breach of [The Private Healthcare Market Investigation Order 2014](#) (the Order). The London Clinic breached the Order by failing to publish details of payments made to, and a summary of the duties performed by consultants who work part-time for it on its website.

### **The breach**

Article 19.3 of the Order requires a private hospital operator such as The London Clinic to publish on its website details of payments made to, and a summary of the duties performed by, referring consultants who both exercise practising privileges at that hospital, and who also hold a part-time position at that hospital.

The purpose of this requirement is to address the concern identified in the CMA's [Market Investigation](#) that private hospitals could incentivise consultants to refer patients to that hospital through payments for medical work<sup>1</sup> at a level that was above the fair market value for such services, essentially hiding referral incentives. The publication of payments made for part-time roles, together with the provision of information on the duties performed by the consultant in return for these payments, should make the scale and basis of such payments transparent, and thereby ensure that private hospitals are less able to hide referral incentives.

The London Clinic failed to do this, as instead of publishing details of payments made to, and a summary of the duties performed by, referring Consultants who held a part-time position at The London Clinic it published the wording "All our Consultants are remunerated at a fair market rate for their services" between April

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<sup>1</sup> Such payments may be received for participating in medical advisory committees, being on-call etc.

2015 and 5 October 2021. This fell a long way short of being information which would be helpful to prospective patients.

### **The CMA's concerns**

The CMA is concerned that The London Clinic failed to publish the information it should have done.

The London Clinic has made clear that this was an oversight, the duration of which was exacerbated by the unique circumstances caused by the Coronavirus (Covid-19) pandemic. It also explained that for two of the years that it did not publish the correct information, its relationship with referring Consultants was undergoing a restructuring which made it difficult to keep information on part-time payments up-to-date and accurate.

The CMA notes, however, that The London Clinic was in breach of the requirements of the Order before both the pandemic and the restructuring. The CMA is therefore concerned with the nature of this breach, notwithstanding the challenges posed by Covid-19. The CMA considers it important that prospective patients are able to find out the links between consultants and the hospitals that consultants refer patients to for treatment.

The CMA identified the breach and told The London Clinic on 23 August 2021.

### **Voluntary action The London Clinic has taken to end the breach and prevent a recurrence**

The London Clinic has ended the breach by publishing details of payments made to, and a summary of the duties performed by Consultants on its website. It has taken steps to seek to prevent a recurrence through:

- centralising responsibility for updating Consultant information within The London Clinic;
- introducing regular reminders to check compliance status on its website against the requirements of the CMA's Order; and
- assigning editing capability to teams with delegated responsibility, so they can make quick changes and ensure that the website is not out-of-date.

### **CMA's assessment and next steps**

Due to the nature and extent of the voluntary actions that have been taken by The London Clinic, the CMA does not consider it necessary to take further formal

enforcement action at this time. We reserve the right to take formal enforcement action if there is further non-compliance.

Yours sincerely

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