

Phoenix Hospital Group

From: Adam Land
*Senior Director, Remedies,
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24 July 2023

Phoenix Hospital Group: Breach of Article 21 of the Private Healthcare Market Investigation Order 2014 (the Order)

I am writing to you on behalf of the Competition and Markets Authority (CMA) concerning your failure to comply with the legally binding requirements of the [Private Healthcare Market Investigation Order 2014](#).

Article 21 of the Order requires every operator of a private healthcare facility to supply the Private Healthcare Information Network ([PHIN](#)) with information about the healthcare episodes it has carried out for patients treated at that facility. The data provided must be sufficiently detailed and complete to enable PHIN to publish information about the performance of the hospital, and consultants who work there, to inform patient choice.

Your ongoing breach of the Order

Phoenix Hospital Group has not provided PHIN with information required by the Order. This ongoing failure represents a breach of Article 21 of the Order:

- There are significant failings in the most recent data submission from Phoenix Hospital Group to PHIN, including:
 - NHS Numbers were missing or invalid in 86% of records.
 - Anaesthetist codes were missing or invalid in 80% of records.
 - Details of the main operating care professional were missing or invalid in 25% of records.
 - The Primary Operation (OPCS-4) code was missing or invalid in 20% of records.
 - Fewer than 1% of the admitted patient care records provided are of good data quality.
- No Patient Reported Outcome Measures have been provided.

- Patient Satisfaction measures were not submitted on time, meaning that measures cannot be published promptly.
- There were eight unaddressed consultant issues covering data for 2020-2023.

We also note that Phoenix has not successfully implemented Patient Reported Outcome Measures since the Order came into force.

The CMA has therefore found Phoenix Hospital Group to be in breach of Article 21.1 of the Order.

The CMA's concerns

The CMA's Market Investigation into private healthcare found that there was a lack of publicly available information on the performance of private hospitals and the performance and fees of private consultants. To address this, the CMA's Order requires hospitals and consultants to submit certain information to PHIN for it to publish to assist consumers in understanding the quality of treatment and help them select appropriate private healthcare. In order to be helpful to private patients, this information must be comprehensive. We are concerned that by failing to provide information as required to PHIN, you are undermining the effectiveness of the Order, and undermining the ability for patients to make appropriate choices in the private healthcare sector.

Your failure to take action to become compliant with the Order

Despite the relevant provision of the Order having been in place for over six years, you have not provided PHIN with the required information. While we acknowledge that the Covid-19 pandemic occurred during this time period, we consider that you have had sufficient opportunity to provide this information.

Phoenix Hospital Group's plan to become compliant

The CMA now expects you to comply with your legally binding obligations under the Order. We note that you have now provided a plan to become compliant with all the relevant provisions of the Order by November 2023 by:

- providing NHS record numbers of patients to PHIN by October 2023
- providing anaesthetic codes to PHIN by July 2023
- providing the correct details for the main operating care professional to PHIN by July 2023
- providing the correct primary operating code to PHIN by July 2023

- fully integrating Patient Reported Outcome Measures into care pathways by November 2023
- Providing patient satisfaction data to PHIN by August 2023

The eight unaddressed consultant issues have now been fixed.

Phoenix Hospital Group must ensure that it complies with the Order in full. The CMA has powers to issue legally binding Directions to businesses that fail to comply with its Orders. However, provided you achieve full compliance in line with your plan by no later than 30 November 2023, the CMA would not consider it necessary to take further formal enforcement action in relation to these breaches. The CMA will monitor Phoenix Hospital Group's future compliance closely.

The public version of this letter has been copied to the Care Quality Commission.

Yours sincerely

Adam Land

Senior Director, Remedies, Business and Financial Analysis