

Consent to certain actions for the purposes of the Initial Enforcement Order made by the Competition and Markets Authority (CMA) on 17 February 2016

Completed acquisition by Acadia Healthcare Company, Inc. (Acadia) of the entire issued share capital of Priory No.1 Limited (Priory)

We refer to your emails and accompanying notes requesting that the CMA consents to derogations to the Initial Enforcement Order of 17 February (the 'Initial Order'). The terms defined in the Initial Order have the same meaning in this letter.

Under the Initial Order, save for written consent by the CMA, Acadia and PiC are required to hold separate the business of Acadia (and its subsidiaries) from the business of Priory (and its subsidiaries) and refrain from taking any action which might prejudice a reference under section 22 of the Act or impede the taking of any remedial action following such a reference.

After due consideration of your request for derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, Acadia and PiC may carry out the following actions, in respect of the specific paragraphs:

1. Paragraphs 5(b), (c), (d), (e), (h), (i), (k), 7 and 8 of the Order

Acadia's operations in the US

The CMA consents to Acadia's operations in the US being excluded from the requirement under paragraphs 5(b), (c), (d), (e), (h), (i), (k), 7 and 8 of the Order, to actively keep the CMA informed of any material developments relating to the Priory business and or the Acadia/PiC business. This derogation does not extend to compliance assurances around paragraphs 4, 5(a), 5(f) and 5(l) of the Order. This is on the basis that Acadia is only active in the UK through its wholly-owned subsidiary, PiC, which is also an addressee of the Order.

Priory's Amore and Education businesses

The CMA consents to Priory's education business (defined in Annex A) and Priory's Amore Group (Holdings) Limited (and its subsidiaries) being excluded from the Order. This is on the basis that these business divisions have no overlapping activities with the Acadia/PiC business in the UK. Consequently, any developments in these divisions will not affect the CMA's review of the completed acquisition nor impede any action that the CMA should wish to take as a result of this review. The Parties will inform the CMA immediately if at any point whilst the Order remains in force this ceases to be the case.

2. Paragraph 5(c), (i), (j) and (k) of the Order

Past changes to key staff

The CMA consents to the following changes to the Parties' key staff, which have in each case followed (i) discussions between the CMA and either Priory and PiC to understand what impact (if any) these changes may have on either business and (ii) where necessary the relevant party providing sufficient assurances that any potential impact has been effectively mitigated:

- the recruitment by [REDACTED];
- the departure of [REDACTED];
- the redundancy of [REDACTED];
- the dismissal of [REDACTED];
- the conclusion of a settlement agreement with [REDACTED];
- the suspension of [REDACTED]; and
- the issuing of a letter of concern to [REDACTED].

Future changes to key staff below director level

The CMA consents to the Parties' making such changes to key staff below the level of director as may be required, provided that the change has received the CMA's consent before any steps to implement the change are taken and is recorded in the rolling compliance statement. The Parties will also [REDACTED].¹

¹ [REDACTED].

Changes to the organisational structural of the Priory business

The CMA consents to Priory's articles of association being amended to improve Priory's corporate governance structure and to simplify Priory's share structure by converting all shares to one class of ordinary shares. These changes are unrelated to the Transaction.

3. Paragraph 5(d) and (e) of the Order

Facility closure and asset disposal

The CMA consents to the closing of Priory's [X] facility. This facility is a care home based in [X] catering for the elderly. The decision to shut it down was taken in the ordinary course of business and for legitimate commercial and financial reasons as the facility had been consistently loss-making.

The CMA also consents to the future sale of the [X] facility on the basis that a sale would enable Priory to monetise the non-operational facility's value.

4. Paragraphs 5(e) and 8 of the Order

Asset disposals

The CMA consents to Priory's proposed sales of the vacant Heighton House and Fernlea properties to independent third parties. Neither facility was operational at the date of the Order. Specifically:

- Priory closed the Heighton House facility in March 2015. Previously, the two storey residence had served as accommodation for eight adults with learning difficulties in the Craegmoor division.
- Priory closed the Fernlea facility in August 2014. Priory had previously operated the property as a ten-bed residential care home in the Priory Education Services division.

5. Paragraph 8(d) of the Order

Supplier contracts

To comply with the Order, Priory has informed the CMA that it has switched provider for its [X] from [X] to [X]. [X] best suited to Priory's needs and price point. The [X] is entirely separate from [X] PiC.

6. Paragraph 5(I) of the Order

Information sharing

The CMA consents to Hospital Sale Information as defined below at pages 5-6, subject to the safeguards below, being shared with certain individuals of Acadia for the sole purpose of permitting Acadia to effect the sale of the proposed divestment hospitals as part of the CMA's Undertakings in Lieu process.

Information will only be provided to the following five designated individuals at Acadia listed below. This is strictly on the basis that all of these individuals are based in the US and are not involved either in the day-to-day or commercial decision-making of the PiC business (in the UK).

- [REDACTED];
- [REDACTED];
- [REDACTED];
- [REDACTED]; and
- [REDACTED].

In addition, the CMA consents to certain information of PiC relating to the finances and tax arrangements of the divestment hospitals, subject to the safeguards listed in the derogations granted on 19 February 2016, being shared with one individual of Priory ([REDACTED]) for the sole purpose of permitting Acadia to effect the sale of the proposed divestment hospitals.

Safeguards

Confidentiality undertakings

Information will only be provided to each of the above named individuals once Priory has received appropriate signed written undertakings (in a form approved in advance by the CMA) to preserve the confidentiality of the information and to use the information only for the purposes specified in this letter. In particular, the individuals will undertake not to discuss or otherwise share this information with any individual other than those listed above as permitted to receive that information or use the information for any purpose other than that specified above.

Firewalls

Acadia will ensure that robust firewall measures are put in place to prevent any other Acadia employee from accessing Priory information, including:

- restrictions on designated individuals' email accounts to prevent unauthorised access; and
- all documents containing Priory information to be password protected, those passwords only to be known to those designated individuals entitled to access the Priory information in question (as listed above).

Destruction and return of Priory information

In the event that the transaction is prohibited, any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the Priory business to which they relate and any copies destroyed.

Categories of Information

The following categories of information are Hospital Sale Information:

- Summary historical and projected financial information regarding the divestment hospitals.
- Summary corporate information such as staffing for the standalone business including marketing and sales, finance and other functions, and insurance coverage.
- Summary operational information including KPIs, licensed and operated beds, average daily census, net revenue per patient day, admissions, average length of stay, occupancy, employee numbers and salaries, and payor mix by facility; local position of sites by service line.
- Summary quality and customer satisfaction information.
- Summary information on growth strategy including planned expansions and acquisitions, and associated strategies.

The following categories of information are Tax Planning Information:

- Details of property/ trading history for each site to be divested (e.g. details of original acquisition; subsequent transfers, enhancements and reorganisations involving the site; details of trading performance for the last financial year and budget for the current financial year).
- Details of the existing corporate structure for PIC, highlighting which legal entities currently own freehold titles, trade and assets for the sites to be divested.

- iii. For legal entities holding either trades or freeholds of properties to be divested, details of which other sites (if any) they own or operate.
- iv. Group tax summary for PiC Group for last accounting period submitted to HMRC, highlighting tax losses (capital losses, non-trading deficits, trading losses) and details of tax paid (if any).

7. Paragraph 5(c) of the Order

Sale of divestment hospitals

The CMA consents to each of PiC and Priory making internal organisational changes to facilitate the sale of the divestment hospitals.

8. Paragraph 5(l) of the Order

The CMA consents to the sharing of information which is commercially sensitive to Priory, subject to the safeguards below, with certain individuals of PiC for the sole purpose of permitting PiC and Acadia to effect the sale of the proposed divestment hospitals.

Information will only be provided to the designated individuals at PiC listed below. This is strictly on the basis that these individuals will have no further role in forward planning, the negotiation of any future contracts, or the re-negotiation of contracts at PiC, and that the authority for decision-making in relation to these matters will be delegated to other PiC staff.

- [✂]; and
- [✂].

Safeguards

Confidentiality undertakings

Information will only be provided to each of the above named individuals once Priory has received appropriate signed written undertakings (in a form approved in advance by the CMA) to preserve the confidentiality of the information and to use the information only for the purposes specified in this letter. In particular, the individuals will undertake not to discuss or otherwise share this information with any individual except for the purpose specified above, or use the information for any purpose other than that specified above;

Firewalls

Acadia and PiC will ensure that robust firewall measures are put in place to prevent any other PiC employee from accessing Priory information, including:

- restrictions on designated individuals' email accounts to prevent unauthorised access; and
- all documents containing Priory information to be password protected, those passwords only to be known to those designated individuals entitled to access the Priory information in question (as listed above).

Destruction and return of Priory information

In the event that the transaction is prohibited, any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the Priory business to which they relate and any copies destroyed.

Redaction of competitively sensitive information

PiC will provide the CMA with an advanced draft of any documents containing information commercially sensitive to Priory (including but not limited to the confidential information package being prepared for potential purchasers) before it is shared with the named individuals. Such documents will only be shared in a form approved in advance by the CMA.

9. Paragraph 5(d) of the Order

Facility closure and asset disposal

The CMA consents to reduction in the number of beds at the [X] facility. This facility is a care home based in [X] catering for adults with learning difficulties. This is on the basis that the CQC has [X].

The CMA also consents to the vacation of the [X] site. This facility is a care home based in [X] catering for adults with learning difficulties and behaviours that challenge. This is on the basis that the decision to vacate was taken in the ordinary course of business and for legitimate commercial and financial reasons.

Annex A

For the purposes of this derogation, Priory's education business comprises the following 16 companies:

1. Priory Education Services Limited
2. Castlecare Group Limited
3. Castlecare Holdings Limited
4. Quantum Care UK Limited
5. Castle Homes Care Limited
6. Castlecare Cymru Limited
7. Castle Homes Limited
8. Rothcare Estates Limited
9. Castlecare Education Ltd
10. Priory New Investments No. 3 Limited
11. Priory New Education Services Limited
12. Dunhall Property Limited
13. Priory (Troup House) Limited
14. Progress Care (Holdings) Limited
15. Progress Audit Services Limited
16. Progress Care and Education Limited