

PART 8 OF THE ENTERPRISE ACT 2002 (EA02)

THE MARIA MALLABAND CARE GROUP

SUMMARY OF UNDERTAKING PROVIDED TO THE COMPETITION AND MARKETS AUTHORITY RELATING TO:

PART 2 OF THE CONSUMER RIGHTS ACT 2015 (CRA)

The Maria Mallaband Care Group (as defined below) has fully co-operated and voluntarily provided the following undertaking to the Competition and Markets Authority (CMA) in response to the CMA's consumer law investigation into the residential care homes (for the elderly) sector.

The Maria Mallaband Care Group gives the following undertaking to the CMA pursuant to section 219, EA02.

UNDERTAKING

For the purpose of this undertaking:

'The Maria Mallaband Care Group' means MMCG Holdings Limited, Maria Mallaband Care Group Limited and all those subsidiary entities listed at Annex A to this undertaking;

'The Relevant Term' means the following term of the Maria Mallaband Care Group standard service user contract/terms and conditions of admission and residency for permanent care, which provides that "In the case of long term residency, where a resident dies at the home or whilst temporarily absent from the home, one months payment of the fee in full is required after the date of death. Fees already received for the calendar month during which death occurs will be credited against the amount due. "

‘Self-funded residents’ includes those residents for whom the care home receives NHS Funded Nursing Care contributions, and third parties making top-up payments directly to the care home to cover a short fall in Local Authority funding.

A) Each of the separate entities which together constitute the Maria Mallaband Care Group (as defined above), and any other entity which on or after 1 December 2017 provides residential accommodation together with nursing or personal care to the elderly as part of that group, will not:

- in the course of their business (respectively) or another business engage in the following conduct (set out at paragraphs Ai to Aiv) and/or
- will not consent to or connive in the following conduct by any body corporate with which each has a special relationship (within the meaning of section 222(3), EA02) namely:

The conduct

- i) Enforce, attempt to enforce or otherwise rely upon the Relevant Term (as defined above) in any contracts for care concluded with self-funded residents, on or before 1 December 2017 and/ or any term of a similar kind or with a similar effect in such contracts namely that has the object or effect of requiring the payment of fees for residential care (or any part of such fees) after the date of the resident’s death.
- ii) Enforce, attempt to enforce or otherwise rely upon the Relevant Term in any contracts for care concluded with self-funded residents, after 1 December 2017 up to and including 10 January 2018 and/ or any term of a similar kind or with a similar effect in such contracts namely that has the object or effect of requiring the payment of fees for residential care (or any part of such fees) after the date of the resident’s death.
- iii) Use or recommend for use in contracts with self-funded residents for care,

concluded on or after 10 January 2018, the Relevant Term and/or, subject to paragraph B below, any term of a similar kind or with a similar effect as the Relevant Term.

- iv) Subject to paragraph B below, use or recommend for use, on or after 10 January 2018, any consumer notice (as defined by section 61, CRA), relating to self-funded residents receiving care, of a similar kind or with similar effect as the Relevant Term.

Scope of Paragraphs Aiii) and Aiv) of the undertaking

- B) After the publication of the CMA's final consumer law compliance advice of 2018 for UK care home providers for the elderly on the charging of fees after a resident's death (**'the Compliance Advice'**), paragraphs Aiii) and Aiv) of the above undertaking, to the extent indicated, will not be breached provided that:
 - i) None of the entities which constitute the Maria Mallaband Care Group use, recommend for use, enforce or otherwise rely on terms and/or consumer notices, which have an inconsistent object or effect, or are in any way contrary to, the Compliance Advice.

Annex A

List of subsidiary companies operating care homes, providing residential accommodation together with nursing or personal care for the elderly, as part of the Maria Mallaband Care Group¹

Maria Mallaband Limited
Maria Mallaband Care Homes Limited
Maria Mallaband Care Homes (2) Limited
Bowerfield House Limited
Chalemere Limited
Millais View Limited
Monread Lodge Nursing Home Limited
Thomas Henry Mallaband Limited
Maria Mallaband Properties (4) Limited
Maria Mallaband Properties (5) Limited
Maria Mallaband (6) Limited
Maria Mallaband 7 Limited
Maria Mallaband 9 Limited
Maria Mallaband 10 Limited
Maria Mallaband 11 Limited
Maria Mallaband 12 Limited
Maria Mallaband 13 Limited
Maria Mallaband 14 Limited
Maria Mallaband 15 Limited
Maria Mallaband 16 Limited
Maria Mallaband 17 Limited
Acer Healthcare Operations Limited

¹ The listed corporate entities are wholly-owned subsidiaries of Maria Mallaband Care Group Limited and, ultimately, MMCG Holdings Limited, trading in the provision of residential care home activities for the elderly.