

Fortius Clinic

From: Adam Land
*Senior Director, Remedies,
Business and Financial Analysis*

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Fortius Clinic: 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

You have not provided PHIN with information required by the Order. This ongoing failure represents a breach of Article 21 of the Order:

- For Admitted patient care the Fortius Clinic has failed to provide diagnosis coding, and 99% of the records submitted by the Fortius Clinic to PHIN do not contain NHS numbers. This makes it impossible for PHIN to process and publish a range of data related to patient experiences which could otherwise be used for patients to inform them of the Fortius Clinic's performance.
- For both Patient feedback and Patient reported outcome the Fortius Clinic has supplied no data to PHIN. This makes it impossible for PHIN to publish information which would be helpful for patients to compare the quality of care and treatment for the Fortius Clinic with other hospitals.
- For Consultant engagement the Fortius Clinic has failed to resolve 18 data issues, which in turn makes information about consultants who practice at the

Fortius Clinic incomplete. This makes it impossible for patients to make effective comparisons of the performance of consultants who work at the Fortius Clinic with other consultants.

The Fortius Clinic is therefore 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 patients 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 provisions 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.

Fortius Clinic's plan to become compliant

The CMA now expects you to start complying fully with your legally binding obligations under the Order. We note that you have now provided a plan to become compliant with the provisions of the Order by May 2023 by:

- Providing complete and accurate diagnosis coding and NHS numbers as part of admitted patient care data
- Providing complete data for patient feedback and relevant patient reported outcomes
- Resolving the outstanding and ongoing consultant data queries

The Fortius Clinic 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 and in any instance no later than 30 September 2023 the CMA would not consider it

necessary to take further formal enforcement action in relation to these breaches.
The CMA will monitor the Fortius Clinic's future compliance closely.

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

Yours sincerely

Adam Land

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