

The Hospital of St John and St Elizabeth

From: Alistair Thompson
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The Hospital of St John and St Elizabeth's breach of The Private Healthcare Market Investigation Order 2014

I am writing to you on behalf of the CMA regarding The Hospital of St John and St Elizabeth's breach of Part 3 of [The Private Healthcare Market Investigation Order 2014 \(the Order\)](#).

The breach

Part 3 of the Order states that private hospital operators have a duty not to provide referring clinicians with incentives that may induce them to refer or treat a patient at that hospital, and referring clinicians have a duty not to accept such an incentive. Such incentives could include higher value services such as consultation rooms, administrative office rental and medical secretarial services at preferential rates. There are exemptions for these higher value services under certain conditions, such as offering the services at fair market value, offering them on equivalent terms to all referring clinicians and publishing the information on a hospital's website.

The Hospital of St John and St Elizabeth offered such higher value services but did not offer them on non-discriminatory terms or at fair market value to each referring consultant and did not publish the appropriate information on its website. As detailed below, the CMA is pleased to see that some of these breaches have been remedied. However, the breach regarding fees for medical secretaries is ongoing.

The Hospital of St John and St Elizabeth had an inconsistent and ad-hoc pricing structure for outpatient consultation rooms, administrative office rental and medical secretarial fees that varied between consultants, meaning they can be reasonably seen as incentives to refer patients to the hospital. They were not published on the website of The Hospital of St John and St Elizabeth, so the relationship between the hospital and the referring consultants was not transparent.

The purpose of these requirements is to address the concern identified in the CMA's [Market Investigation](#) that private hospitals could incentivise consultants to refer patients to that hospital in a non-transparent or uncompetitive manner. It is in the interests of patients that there be no incentives – other than to act in the best interests of those patients – in the referral process.

The CMA's concerns

The CMA is concerned that The Hospital of St John and St Elizabeth failed to comply with Part 3 of the Order.

The Hospital of St John and St Elizabeth believes that it may have been in breach of Part 3 of the Order since it came into force in 2015. Record keeping does not extend this far back but there is a strong likelihood that The Hospital of St John and St Elizabeth has never complied with all the provisions of the Order. It is certain that it has been in breach since 2018. The extended period of time the breach has been going on for is of serious concern to the CMA as it may have affected a significant number of patients.

The Hospital of St John and St Elizabeth voluntarily informed the CMA of the breach on 7 February 2024.

Voluntary action The Hospital of St John and St Elizabeth has taken to end the breach and prevent a recurrence.

The Hospital of St John and St Elizabeth has recently undergone a change of senior leadership and management, and the new team has made progress to become compliant with the Order.

- In January 2023, it restructured the costing arrangements for outpatient consultation rooms to make them fair and transparent.
- It has reorganised how it charges for administrative office rental, formalising the process with written licenses to occupy and making the pricing equal and at fair market value.
- It is currently engaging with the small number of consultants who use medical secretaries to determine the best course of action to become compliant with the

Order. This process is subject to the Action Plan which has been published alongside this letter and will be concluded by the end of 2024. The CMA looks forward to further engagement with the hospital to support the steps towards compliance by this date.

- In addition to the work taken to rectifying the breaches, it has also taken steps to ensure compliance with Part 4 of the Order.

CMA's assessment and next steps

The CMA expects The Hospital of St John and St Elizabeth to fully comply with Part 3 of the Order by 1 January 2025. The action plan has been published as an annex to this letter.

Due to the nature of the voluntary actions that have been taken by The Hospital of St John and St Elizabeth, 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.

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

Yours sincerely

Alistair Thompson

Director – Remedies, Business and Financial Analysis

Annex A: The Hospital's Action Plan

Timing	Action
July/August 2024	Initial meeting with consultants
September/October 2024	Interim discussions with consultants
Nov/December 2024	Finalising arrangements
Effective new rates and full CMA Compliance	1 January 2025