

# Competition Compliance Policy Statement



**The Board of the Equity Release Council** (the “Council”) has adopted the following policy to ensure that all activities of the Council operate in compliance with UK competition laws.

## Scope of Policy

The Board of the Equity Release Council (the “Council”) has adopted the following policy to ensure that all activities of the Council operate in compliance with UK competition laws.

**The Council’s policy is to comply with competition law. This policy applies:**

- To anyone attending activities and meetings organised by the Council, including its employees, Council members and any other relevant organisation or individual; and
- In all correspondence in connection with the Council’s business.

It is the responsibility of everyone at the Council, its members and others who take part in discussions/correspondence with or on behalf of the Council to always ensure compliance with competition law.

If you have any questions about this policy or identify any competition concerns then you should speak with the Council’s Head of Risk, Policy and Compliance (HRPC), who shall in appropriate cases seek legal advice when questions arise as to the application of this policy.





## Application of Competition Law to Trade Associations

Trade associations, such as the Council, are legitimate, important bodies, which advance issues of common interest to the industry. As the Council includes members who are competitors, we must be vigilant to ensure that participation in the Council always complies with UK competition law.

**Competition law violations can result in significant penalties for the Council, its members and even individuals including:**

- Significant fines and damages actions for the Council, members and/or any other organisations concerned; and
- Fines, imprisonment and/or director disqualification for individuals.

Furthermore, competition proceedings and litigation are expensive and burdensome, and the mere allegation of wrongdoing can cause reputational damage for the Council, its members and any other organisations concerned.

## Competition Law Prohibitions

The aim of competition law is to ensure that organisations compete freely and fairly with one another for the benefit of customers and consumers. Anti-competitive behaviour is prohibited in the UK, and enforcement action can be taken by either the Financial Conduct Authority (“FCA”) or the Competition and Markets Authority.

UK laws prohibit arrangements (including information exchange) between undertakings and decisions by associations of undertakings, which have as their object or effect the prevention, restriction, or distortion of competition.

**They prohibit agreements, decisions, or practices which:**

- Directly or indirectly fix purchase, selling prices or any other trading conditions.
- Limit or control the provision of services, markets, technical development, or investment.
- Share or allocate markets, customers or territories; or

- Share commercially sensitive information.
- Apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage.
- Make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations, which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Competition law applies to all types of agreements including: a formal agreement in writing; an oral agreement; a general understanding (or a ‘meeting of minds’) where no actual agreement has been reached; or a one-way disclosure of commercially sensitive information – even if you only receive information on one occasion and do not reciprocate, you may be found to have breached the prohibition on anti-competitive agreements.

UK laws also prohibit any abuse by one or more undertakings of a dominant position.

## Policy

The following policy is provided to the Council, its members and any other organisation or individual taking part in discussions with or on behalf of the Council to help ensure that meetings and activities of the Council do not lead to breaches of UK competition laws, in particular, the exchange of commercially sensitive information.

This policy applies before, during and after formal Council meetings, informal meetings, events, and presentations including in all correspondence in connection with the Council's business.

Anybody who breaches this policy could face disciplinary action and could be reported to the FCA and/or the Competition and Markets Authority.

**Members are also reminded that Principle 11 of the FCA's Principles for Businesses require that:**

“ A firm must deal with its regulators in an open and cooperative way and must disclose to the appropriate regulator anything relating to the firm of which that regulator would reasonably expect notice. ”

Please bear in mind that competition law is complex, and that this policy does not cover all contingencies. Please consult the Council's Head of Risk, Policy and Compliance if you have any questions about the application of this policy.





# The key **dos** and **don'ts** about what you can and cannot do are set out below:

## **Do:**

- Always review agendas for meetings prior to attendance to ensure that no items raise competition law concerns. If ever in doubt you should seek legal advice.
- Ensure that you receive and carefully review the minutes and presentations of all meetings. If the minutes are inaccurate or incomplete or raise any questions, insist on rectification.
- Intervene to stop a discussion if you consider a potentially non-compliant issue is being discussed and warn those present of the need to comply with competition law. Ensure that the intervention is documented and inform the Council's HRPC. If the intervention does not bring the inappropriate discussion to an end, leave the meeting/discussion and ensure your withdrawal is documented.
- Allow open and equal participation of members in all Council meetings and do not exclude a specific member or group of members from particular meetings (unless you have a valid objective reason that has been approved by the Council's HRPC).
- Keep in mind that activities relating to standard setting, lobbying activities, benchmarking and statistics dissemination can bring along competition law risks, especially when presented as a collective decision of the Council to which members should not deviate.
- Be cautious in the presence of competitors even in informal or social situations. Even informal discussions or throw-away comments can lead to problems if, for example, there is subsequent significant uniformity in action by competitors afterwards.
- Inform the Council's HRPC of any conversations which you consider were non-compliant with competition law and where appropriate report to the Competition and Markets Authority.
- Alert the sender and other recipients of any correspondence in connection with the Council's business which you regard as potentially non-compliant with competition law. Send a copy of such correspondence, together with the response, to the Council's HRPC.
- Record any steps you take to ensure compliance with competition rules.





## Do not discuss:

- Individualised price or price elements (including current, recent, or future interest rates and any discounts; fees and costs, and any proposed changes to any pricing elements).
- Formal or informal pricing or output recommendations to members.
- Terms and conditions on which products or services are supplied to customers.
- Information relating to individual customers, suppliers, or competitors.
- Individualised or non-anonymised sales volumes, turnover or revenues.
- Bids, bidding terms, tactics, strategies, or practices.
- Individualised and non-anonymised profits, margins, and costs.
- Strategic plans, business plans, intentions, promotional activities and marketing strategies or investment plans.
- Any other confidential or competitively sensitive information terms of business in connection with specific products with other members or competitors.
- Customer lists.
- Items which are not on the agenda.





## You may discuss:

- The general impact of new legislation and policy (but not specific compliance costs).
- Industry trends.
- Good practice standards.
- General market conditions.
- Benchmarking issues.
- Training programmes.
- Other objective external factors.
- Issues which are designed to spread knowledge and enhance industry standards.

Information that is genuinely public information may be shared. Note however that for information to be genuinely public, it must be generally equally accessible (in terms of cost of access) to all competitors and customers. As a general rule, if there is any cost/resource associated with obtaining or collating the information, there is a real risk that it will not be regarded as genuinely public information, and that its exchange between competitors may be problematic.

## If prohibited matters are raised:

- **At a meeting:** In the first instance the Chair or Secretary to the meeting should intervene to stop discussion, warning those present of the need to comply with competition law. Nevertheless, any person present, who considers that a potentially non-compliant issue is being discussed, should raise the matter immediately with the Chair. Any such interventions should be minuted and drawn to the attention of the Head of Risk, Policy and Compliance (HRPC). If the intervention does not bring the inappropriate discussion to an end, those objecting to it should leave the meeting and ensure their objection and withdrawal are minuted.

- **In correspondence, including email:** any member receiving correspondence in connection with the Council's business which they regard as potentially non-compliant should alert the sender and any other recipients to the fact that it may be potentially non-compliant, and should copy such correspondence, together with the response, to the Council's HRPC. The recipients may need to take steps to ensure they cannot act on any information inappropriately provided, e.g., sending the email to their legal department and then deleting it.

- **In a social context:** conversations at social gatherings may also be non-compliant with competition law if they cover prohibited issues. Council members should be aware of the risks of taking part in such conversations and of the need to warn others of such risks. They should either intervene to stop the discussions or withdraw from them.

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