

Summary/Background

Competition law promotes and protects free and fair competition between companies. The objective is to ensure that companies compete against each other on a “level playing field” with the objective of seeking a fair deal for customers and consumers. Kier’s policy is to comply with relevant competition law so that it wins work fairly and on merit.

What is the requirement?

This policy aims to ensure that every employee, and other persons engaged by Kier (the Company), is aware of possible competition law issues concerning the Company and knows how to escalate those for consideration. The competition authorities have considerable powers to enable them to investigate breaches of competition law, including carrying out “dawn raids” (guidance available [here](#)) on a company’s premises as well as individuals’ homes and cars, and the searches they undertake are likely to be intrusive, including an in-depth search for any evidence stored on IT systems.

Please make sure you understand the competition laws which apply to your operations.

Why is it important?

Competition law prohibits agreements between two or more businesses that prevent, restrict or distort competition (for example, by fixing prices, sharing markets, limiting production or supply or rigging bids). The concept of an ‘agreement’ is broad; it can include written or oral agreements, and they don’t need to be legally enforceable. It can also include informal arrangements such as a “gentlemen’s agreement”, or a simple “understanding”. The competition authorities are able to infer the existence of an agreement or understanding on the basis of relatively limited evidence.

It is also illegal under competition law for companies with strong market power or a so-called ‘dominant position’ to abuse their position to either exploit customers or exclude competitors (for example, using predatory pricing to drive competitors out of business or unreasonable tie-ins). A company may hold a dominant position if it has a market share in excess of 40-50% and can take business decisions without regard to its competitors or customers.

Both the Company and individual officers and employees may be subject to civil and/or criminal penalties for non-compliance.

- Dividing up or allocating tenders, projects, territories or customers, for example, by agreeing who should bid or not bid for particular contracts, or rotating who should win particular contracts

What must I do/not do?

You must

- comply with this Competition Law Policy and any related procedures or standards
- report any contacts with Competitors or any situations in which competitors are present (in accordance with the notification procedure set out in Annex 1 below)
- gather market intelligence only from publicly available resources or in accordance with an approved benchmarking process
- seek advice if unsure how to proceed
- report any suspected or actual breaches of this policy promptly and accurately to the relevant Kier line manager or via the Speak Up Helpline. You must do this even if you/Kier are not directly involved. Kier must take active steps to distance itself from all competition law breaches; staying quiet is not an option
- be alert to ‘red flags’ and immediately report or seek guidance about them
- understand high areas of risk and stay alert to them (such as considering and entering into joint ventures, joint purchasing, joint bidding etc. or events at which competitors are present).

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You must not enter into agreements or arrangements or have discussions (including over email, social media or other communication tools) with competitors or potential competitors in relation to:

- the price at which or the terms on which Kier does business including the terms of any customer or tender, including discussing and exchanging information on prices (including a cover price) and any other terms and conditions
- exchanging information directly or indirectly with a competitor concerning recent, current or intended bids, sales, prices, discounts or terms of business etc.
- any exchange of commercially sensitive information (such as pricing information) with competitors directly or intentionally passing this information via an intermediary (including a customer or supplier)
- Where or with whom Kier does business such as dividing up or allocating tenders, projects, territories or customers, for example, by agreeing who should bid or not bid for particular contracts, or rotating who should win particular contracts
- boycotting particular customers or suppliers or acting together to impose conditions on a customer or supplier
- discussing with a competitor our appetite or otherwise for any particular tender or any details of how we are intending to respond to a tender
- any discussions and agreements of a price fixing or bid rigging nature with parties who might be interested in acquiring any land which Kier is also considering whether to acquire
- discussing with a competitor our costs, including the prices we get from any part of the supply chain (whether or not we use them)
- warning and/or agreeing with a competitor or new market entrant to 'stay off our patch'
- abusing a dominant market position (if this applies to your business line), for example, by creating unnecessary/unreasonable barriers to entry or to drive competitors out of the market.

This Policy should be read in conjunction with the [Chief Executive Foreword](#) and the [Competition Law Guidance note](#).



Andrew Davies
Chief Executive

For and on behalf of Kier Group plc

Last Reviewed: October 2021

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Annex 1

Contact Report Form

Your Name, Title and Business Unit:

Who called you/met you? Name, Title and Organisation

How was your call/meeting arranged (provide copies of all correspondence)?

Why did the call/meeting take place?

Is there a current tender (or is a tender imminent) relevant to the contact?

What was discussed?

How did you leave things?

What are your concerns?

Date:

Attach all relevant correspondence and submit to your Finance Director, copied to david.foster@kier.co.uk as soon as possible and, in any event, within 2 days of becoming aware of the contact.

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