

Scotland Excel Annual Conference 2022

Wednesday 18th May

Follow Up Speaker Questions

Keeping 1.5 Alive; Mobilising climate and social action through collaboration, innovation and leadership

Dr Roddy Yarr, Executive Lead Sustainability, University of Strathclyde

- 1. Do you utilise a tool(s) to help you monitor and report on carbon emissions? If you do, would you be willing to share it?**

We use in house software that we have added sustainability metrics into. We adapted this as a simpler and bespoke way to manage data. We also use multiple spreadsheets as you can imagine. We did look at one or two systems and tried one but it didn't work for us.

- 2. Are any of the project you highlighted “managed /whole of life” services i.e. a longer term relationship with the construction supplier (beyond the life of the build)?**

Our district energy scheme has an ongoing maintenance contract attached to it and this includes an optimisation element which means we are upgrading our building energy systems as we go. We also use soft landings for our new or refurbished buildings. This enables us to manage the commissioning of the building during its first few years of life.

Cheating or Competing - Understanding and Spotting Price Fixing, Cartels

Georgina Laverack, Assistant Director - Cartels, Competition and Markets Authority and
Lars Suhr, Payments Systems Regulator

- 1. Are investigations (and the identity of the “accuser”) exempt from FOI? Whether the investigation is live or concluded?...whether or not fraud or other criminal offence ultimately established? Irrespective of the final outcome? Just wondered if total confidentiality is assured in all circumstances?**

Yes, exemptions are provided under the FOIA for requests received relating to investigations, confidential sources and the prevention and detection of crime. These exemptions (under Sect 30 and 31) allow law enforcement agencies to either decline to provide or to ‘neither confirm nor deny’ the existence of the information requested (subject to the public interest test).

2. Subnormal low tenders are a normal part of a tender process, and we investigate to confirm they are genuine. With your comment around don't contact suppliers, how do you suggest we approach subnormal low tenders?

An unusually low bid or a clear gap between a winning bid and the other bids may be a 'red flag' of suspicious bidding behaviour that may indicate bid rigging behaviour and should raise suspicions. You may want to go back to the supplier to check factual information (e.g. that all elements of the tender have been included) but you should be very careful to avoid giving the impression that you are suspicious about possible cartel activity. As we highlighted in our talk, it is important that you do not confront a supplier yourself about suspicions of bid rigging or other cartel activity – as this could tip them off to a future investigation (lead to them destroying evidence). Instead, if you do have suspicions please get in contact with the CMA instead.

3. What have Allpay done to remedy the situation?

The PSR's investigation focused on establishing whether competition law had been infringed, and in our decision we find that the parties did break competition law and we impose fines on them for this reason. However, as is typical for cartel cases, the decision does not establish to what extent (if at all) the parties (e.g. allpay) have taken steps to remedy the situation (and as such this is not the focus of the investigation). The reason for this is that making such findings is not legally necessary to prove that a party infringed competition law. Further, while the Competition Act 1998 allows in principle for a voluntary redress scheme to be offered by firms under investigation, none of the parties offered this in the present case. This does not rule out that allpay may have taken steps to remedy the situation which we are unaware of.