



Groceries Code  
Adjudicator

## **GCA policy: Continuing the collaborative approach during an investigation**

# **Continuing the collaborative approach during an investigation**

## **Outline**

Working protocols on how the GCA will apply the 3-stage collaborative approach to all retailers while an investigation is in process.

## **Protocol 1**

Continuing the collaborative approach to working with retailers on GCA business while one or more investigations are ongoing.

## **Proposed handling**

The collaborative approach to business as usual should continue as published and all CCOs will continue to be dealt with in the same way, irrespective of which retailer(s) is/are under investigation.

This will mean:

- Continuing to hold quarterly meetings with a standard agenda and publishing the meeting record.
- Continuing to make CCOs aware of information brought to the GCA about practices which might not be consistent with the Code, either more generally (whether to protect the anonymity of those providing information to the GCA or because practices are reported to be widespread across the sector, possibly involving all retailers) or specifically to individual retailers. This will also include the retailer(s) under investigation.
- The GCA will stay silent on the progress of the investigation and this will not be discussed with CCOs.

What will be different:

- The scope of any investigation will inform the nature of discussions with retailers.
  - Discussions on the areas covered by a live investigation need not be avoided if there are valid reasons to raise a particular issue.
  - However, a more formal introduction may be needed to explain why the issue is being raised, referencing the investigation and whether a response from the retailer is expected at this stage.
  - The GCA will make clear to retailers not currently under investigation for a particular suspected breach, if it looks like they may come into scope as a result of information received.
  - The GCA will make clear at which stage of the published collaborative approach the relevant conversations are taking place.

- The GCA will not request information under the collaborative approach about conduct which might be in breach of the Code from retailers not being investigated for that suspected breach, including its non-investigative monitoring function. The GCA will gather information from all sources, including from retailers not currently being investigated, on practices being investigated using its statutory information powers.

## **Protocol 2**

Acting on information from suppliers and others about the retailer(s) under investigation but not about the practices being investigated.

### **Proposed handling**

In addition to sharing information under the collaborative approach, the GCA will also use that information as possible evidence of the conduct of the retailer(s) under investigation. This is because the GCA has a duty to take all relevant information into account in any investigation.

This information will provide the GCA with a perspective on behaviour change (positive and negative) generally across the retailer(s), as reported by suppliers (even if not directly to the GCA), and in particular on the issues under investigation. This is because there will often be a close connection between business culture overall and specific business practices.

## **Protocol 3**

GCA communication with retailers not currently under investigation and other parties about the live investigation(s).

### **Proposed handling**

The GCA will not discuss any details of the investigation with retailers or others not currently involved in the investigation, including other parts of government, the media, suppliers and trade bodies. The reasons for that are:

- The information is protected; and
- Other retailers may be brought into the scope of the investigation as it progresses or the GCA may decide to launch a separate investigation into other retailers' behaviour.

Any general statements that the GCA chooses to make about the investigation will be made public and to all retailers, suppliers and others at the same time. The exception to this principle will be discussions with the retailer(s) under investigation prior to any release.

## **Protocol 4**

Dealings with the retailer under investigation on the issues under investigation.

### **Proposed handling**

The GCA will make a clear distinction between business as usual discussions under the collaborative approach and conversations about the issues being investigated. There will be no discussion of the investigation at regular CCO liaison meetings.

Discussions about the investigation will be held through meetings specifically arranged for that purpose.

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