

Driving Change, Making an Impact Annual Report 2016-17



#GCA2017



Groceries Code
Adjudicator

Statutory reporting requirements

The GCA Act 2013 sets out the information we must report:

Statutory report	
Disputes referred to arbitration under the Groceries Supply Order	No disputes were referred to arbitration in the reporting period 2016/17. Two arbitrations which were underway from the previous reporting year were resolved
Investigations carried out by the GCA	No new investigations. The GCA was monitoring the implementation by Tesco plc of the recommendations made in the report of the investigation. This monitoring was concluded in this reporting period and has been transferred to business as usual engagement
Cases in which the GCA has used enforcement measures	No new enforcement measures were used
Recommendations made to the CMA for changes to the Code	None

But we have achieved so much more ...

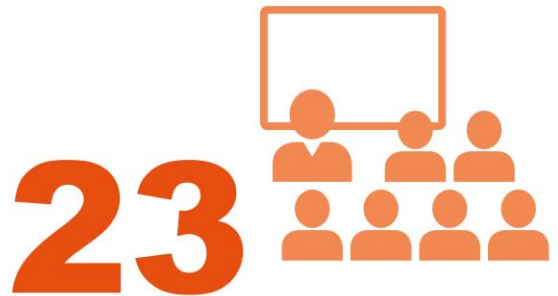
Promoting the work of the GCA



**RETAILER
MEETINGS**



**SUPPLIER
ONE-TO-ONES**



**SUPPLIER AND TRADE
ASSOCIATION EVENTS**



**4
QUARTERLY
NEWSLETTERS
PUBLISHED**

Providing advice and guidance

- **Policy:**
 - **Response to the consultation on payments for better positioning**
 - **Reissuing GCA arbitration policy**
- **New case study**
- **New way of categorising the Top 5 issues**

Acting on supplier issues: working with CCOs

- **Quarterly meetings with each CCO continue**
 - **CCOs provide a regular report updating me on supplier issues and progress on my Top 5**
 - **CCOs respond to requests for reports on specific practices**

Acting on supplier issues: consultation

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Groceries Code Adjudicator

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The Groceries Supply Code of Practice – paragraph 12: payments for better positioning

Overview

Following the investigation by the Groceries Code Adjudicator (GCA) into Tesco plc, which considered the issue for payments for better positioning of goods under paragraph 12 of the Groceries Supply Code of Practice (the Code), the GCA announced that she would consult the groceries sector on the proper scope of indirect requirements for payment to secure better positioning of goods or increased shelf space within a store.

The GCA is aware of a range of practices relating to payments for better positioning and allocation of shelf space, and would like to know more about them and their impact on direct suppliers, in particular.

Responses to this consultation will help the GCA understand how widespread these practices are among the 10 retailers regulated under the Code, what forms they take, their impact on suppliers and their effect on competition and consumer choice. The GCA will then determine what the proper scope of paragraph 12 of the Code should be, specifically in relation to indirect requirements for payment to secure better positioning or increased shelf space. The GCA does not intend to interfere in commercial negotiations which are beyond the reach of the Code.

This consultation is relevant to: direct suppliers to the 10 retailers regulated under the Code and their representative trade bodies, the regulated retailers.

How to respond

The consultation opens on 27 June 2016 and closes at 4pm on 19 September 2016.

Give Us Your Views
[Online Survey](#)

Status: Unpublished

[Consultation Dashboard](#)
[Preview Consultation](#)

Contact

enquiries@gca.gsi.gov.uk

Key Dates

Status: Forthcoming

Runs from 27 Jun 2016 to 19 Sep 2016

Other Information

Audience:

Direct suppliers to the 10 retailers regulated under the Code and their representative trade bodies, the regulated retailers.

Acting on supplier issues: case study



Theme of case study

The GCA determination of Wm Morrison Supermarkets plc requests for retrospective and prospective lump sum payments from suppliers in June 2015.

Code reference(s)

Paragraph 3 of the Code – Variation of Supply Agreements and terms of supply; together with Paragraph 2 of the Code – Principle of fair dealing.

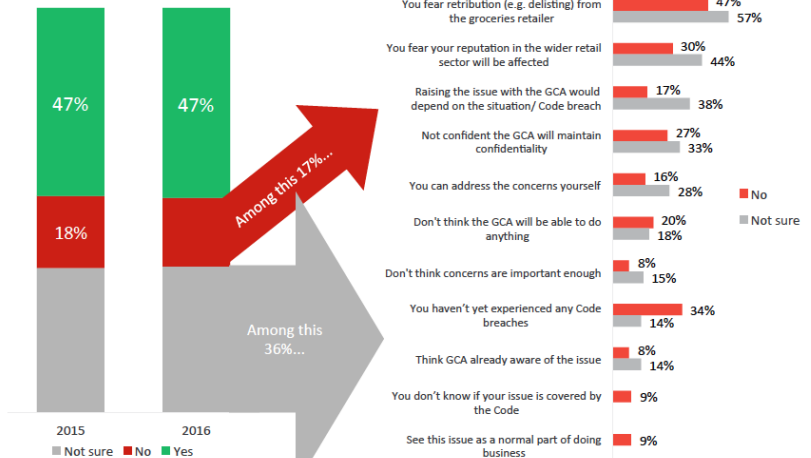
Acting on supplier issues: 2016 survey

Issues categorised by the Code: Which issues have direct suppliers experienced? – by retailer

	Retailer 1	Retailer 2	Retailer 3	Retailer 4	Retailer 5	Retailer 6	Retailer 7	Retailer 8	Retailer 9	Retailer 10
De-listing without giving reasonable notice	7%	4%	6%	2%	9%	3%	2%	2%	3%	3%
Incorrect deductions from invoices with or without notice	14%	8%	13%	2%	9%	5%	3%	5%	6%	5%
No compensation for/incurring penalty charges as a result of inaccurate forecasting by the retailer	11%	3%	10%	3%	8%	6%	4%	3%	3%	5%
Excessive retailer charges for artwork/design	10%	13%	9%	15%	11%	7%	3%	5%	7%	5%
Unjustified payments for consumer complaints	10%	10%	8%	0%	5%	9%	3%	0%	5%	6%
Drop and drive: delivery performance	8%	8%	9%	2%	6%	5%	1%	5%	5%	3%

YouGov

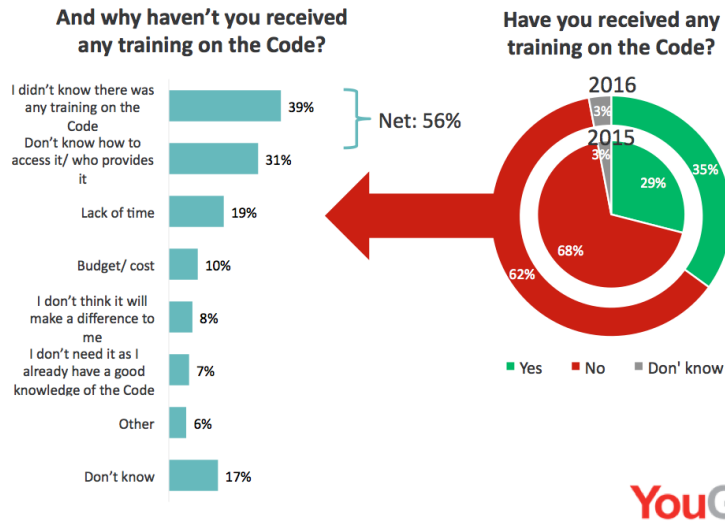
Why not raise an issue?



YouGov

Acting on supplier issues: supplier training

Awareness of training is low



Transparency data

Groceries Code training providers

From: Groceries Code Adjudicator
Published: 8 September 2016

A directory of companies and individuals offering training to grocery suppliers.

Documents



[Training providers](#)

PDF, 233KB, 6 pages

Details

The GCA is working to raise awareness of the availability of GSCOP training following the results of the 2016 survey.

Information has been provided by trainers and inclusion in this directory is for suppliers to follow up. Inclusion does not imply endorsement of the courses by the GCA.

Improving the culture of compliance

- **Continue to meet chairs of retailer audit committees**
- **Satisfactory progress by nearly all retailers during the year:**
 - **Businesses supporting their CCOs**
 - **Senior management commissioning 3rd party consultancy**
 - **Seeking GCA advice on new processes and practices**

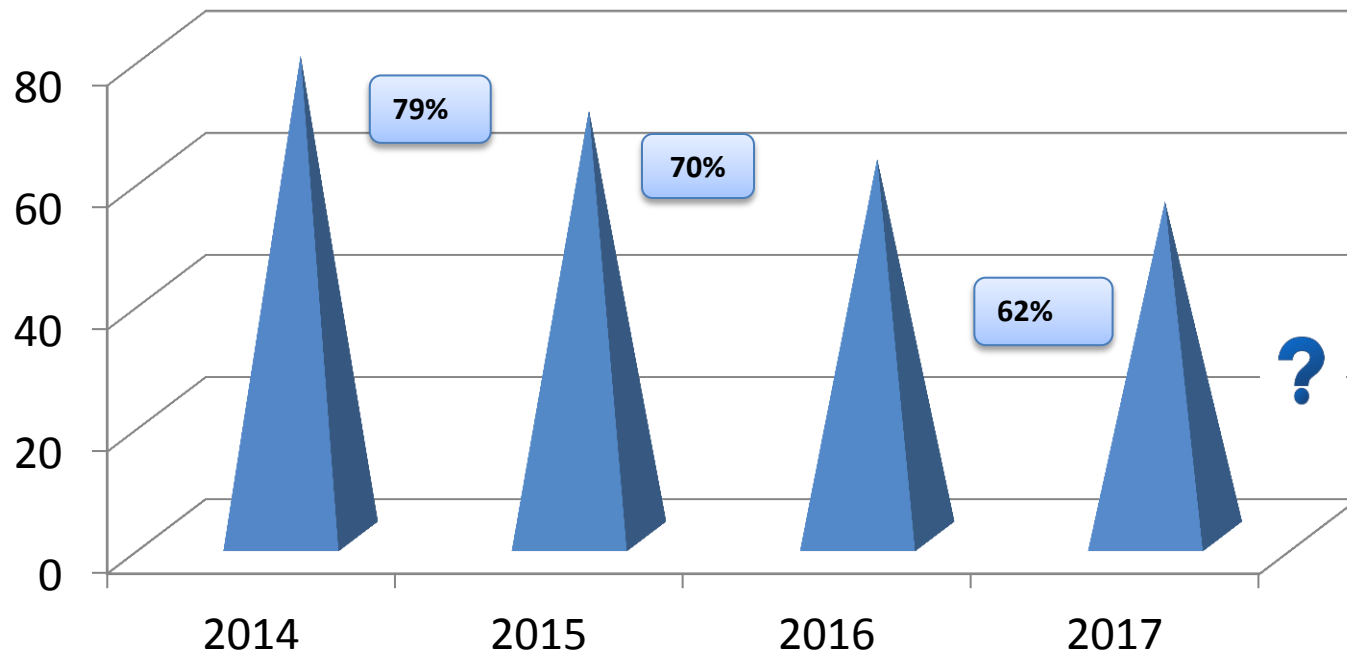
Driving Change, Making an Impact

Tackling the Top Issues



Seeing progress – year on year

% Suppliers experiencing Code-related issues



Delay in payments



A retailer must pay a supplier for groceries deliveredin accordance with the relevant Supply Agreement

- **Tesco recommendations central to my approach**
- **Overseen Tesco implementation of those recommendations and published report of actions**
- **Issue remains current while I monitor compliance with my interpretation of the Code by all retailers**
 - **Waiting to see evidence based on outcomes**
 - **Will continue to monitor what suppliers report**
 - **Escalating drop and drive**

Delay in payments: drop and drive



- **Progress on drop and drive has been too slow and this is costly for suppliers**
- **Intensified my collaborative approach: retailers warned to make progress or face regulatory action**
 - **Retailer solutions include: fully traceable systems; new receipting processes; Good Faith Receiving**
- **Positive feedback from suppliers that participate in new schemes**

Drop and drive: message to suppliers



- **My message to reluctant suppliers is to engage with retailers on these solutions**
 - **Significant investment being made by retailers**
 - **Retailers are responding to Code-related concerns**
 - **Supplier and retailer feedback to me is that progress in this area makes the supply chain simpler**

Pay to stay arrangements



A retailer must not require a supplier to make any payment as a condition of stocking that supplier's groceries unless in relation to a promotion or products which have not been stocked during the preceding 365 days

- Responded to supplier concerns that they may be indirectly required to pay lump sums to keep their business with a retailer, not part of normal commercial negotiations
- Two workshops on issue, listened to supplier concerns and provided retailers with examples of events/initiatives that could provoke such concern



A retailer must not vary any Supply Agreement retrospectively unless the Supply Agreement sets out clearly [the] circumstances...and rules calculating the adjustment

- **Made clear that unilateral deductions should not be made to satisfy an unachieved margin target unless unambiguously supported by the Supply Agreement**
- **Have received and assessed information from retailers and suppliers and basing next steps on results of 2017 survey**

Payments for better positioning



A retailer must not directly or indirectly require a supplier to make any payment in order to secure better positioning or an increase in allocation of shelf space....

- **Following Tesco investigation I carried out a consultation on payments for better positioning of goods in stores**
- **Response published in February**
 - Practices that concerned me have ceased
 - Made clear what I consider to be compliant behaviour for the future



A retailer must fully compensate a supplier for any cost incurred by that supplier as a result of any forecasting error... Unless the retailer has prepared those forecasts in good faith and with due care

- **Best practice statement March 2016 – asked retailers to improve transparency of communications with suppliers about forecasting**
- **Suppliers telling me they have not seen much progress; recent supplier workshops on issue**
- **I have asked retailers to tell me what action they have taken in the year since I published the statement**

Top issues – now previous



- **Announced a best practice statement on consumer complaints at the 2015 conference and then closely monitored issue**
- **During year I confirmed that retailers' practices are broadly in line with the best practice statement and categorised the issue as previous**



- **Issue prompted by supplier concern over charges**
- **Following a review, I noted that all retailers taking steps to bring practices and charges closer to key principles - reasonable, predictable and transparent**
- **My review did not identify any breach of the Code and I have now categorised the issue as previous**

BEIS review of GCA

- **Still awaiting publication of BEIS' statutory review of the GCA and the outcome of the call for evidence on extending the GCA's remit**
- **But pleased to confirm that I have committed to continue as Adjudicator for a further year from June 2017 while the GCA's remit is under consideration**

www.gov.uk/gca



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