



## Guidance

# Collaborating with other higher education providers

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If you're a higher education (HE) provider thinking about working with another provider to achieve a shared goal, this page is intended to support you in staying on the right side of competition law.

Collaborations are increasingly common in the HE sector. There are many instances where these collaborations can be beneficial and pose little or no competition law risks.

This guidance aims to help you spot where there might be risks, how you might reduce those risks and when it may be useful for you to seek advice.

## Who does competition law apply to?

Competition law applies across the whole of the UK to ‘undertakings’. Broadly, an undertaking is any entity that engages in an economic activity, such as providing goods or services in exchange for payment, even if its activities are not motivated by profit.

The term ‘undertaking’ applies to businesses as well as to public sector and not-for-profit bodies including charitable institutions (provided they are carrying out economic activities).

Read our guidance on [collaborating with other businesses](#) for more information on how competition law applies to collaborations.

## What makes a good collaboration?

Here are some points to consider if you’re thinking about pursuing a project jointly with another HE provider:

- define the purpose of the collaboration, what it aims to achieve, what benefits it may bring about and who may benefit
- articulate why the full benefits of collaboration could not be achieved by each HE provider acting alone
- consider what effect the collaboration may have on competition – for example, what impact it may have on choice for students
- make sure that any reduction in competition brought about by collaboration does not go beyond what is strictly necessary to achieve its beneficial goals
- be careful that discussions do not stray into the sharing of competitively sensitive information such as confidential details about strategy (see further below)

We’ve set out below some further information and links to other resources to help you navigate competition law considerations when collaborating with other HE

providers.

## **Working informally with other HE providers**

Collaboration does not need to involve a formal partnership between HE providers. These are examples of less formal collaborations that are unlikely to raise competition law concerns:

### **Facilitating staff and student movement**

You can work together with other providers to facilitate student and staff movement from one provider to another, should you need to – for example, if a course is closed.

### **Jointly engaging with policy-makers**

You can also participate alongside other providers in conversations with national or local government, regulators and public bodies. This might include roundtable discussions about improvements to policy and regulation to support the sector – for example, on delivering the right skills provision or on the focus of research efforts.

### **Benchmarking**

You may wish to exchange information with other HE providers to help you make more informed decisions (for example about the goods and services you purchase) or to become more efficient (through benchmarking against each other's best practices).

Exchanging information with competing providers will only be problematic from a competition law perspective when it involves information that is 'competitively

sensitive'. Competitively sensitive information is information which reduces competitive uncertainty in a market or which can influence the competitive strategy of the recipient.

The following principles provide a helpful steer on whether exchanges of information are likely to raise competition law concerns.

### **Consider if the information is public or confidential**

Genuinely public information (that is, information that is already readily available to the public) is generally unlikely to be competitively sensitive.

### **Consider if the information is aggregated or individualised**

The more easily information is attributable to a particular provider, the more competitively sensitive that information is likely to be. However, exchanging information that is appropriately anonymised and aggregated, such that the individual inputs can't be reverse engineered and the outputs do not give an insight into another provider's strategy, is less likely to raise competition law concerns. Benchmarking using a third party (such as an independent consultancy) that ensures information is anonymised and sufficiently aggregated can make the exchange of such information less problematic under competition law.

### **Consider the age of the information**

Older information (or statements concerning events in the past) is less likely to be competitively sensitive than current information (or statements concerning current events). Statements concerning future events are more likely to be competitively sensitive.

Read section 8 of our guidance on [horizontal agreements](#) for more information about how competition law applies to information exchange. In particular, paragraphs 8.71 to 8.77 describe measures to reduce competition law risk.

Our guide to [competing for talent](#) has helpful information about benchmarking in relation to the purchase of key inputs, such as recruiting staff.

## **Contractual partnerships with other HE**

# providers

More formal partnerships between providers, including [joint ventures](#) and contractual alliances, can also bring many benefits, such as achieving efficiencies when buying goods and services, and opening up new opportunities for collaboration through shared services and infrastructure.

## Jointly purchasing goods or service

You can explore working together with other providers for procurement purposes in areas such as buying equipment or wellbeing services, which can help maximise savings and efficiencies. This type of collaboration between HE providers is unlikely to raise competition law concerns.

## Sharing services and infrastructure

You can also consider sharing back-office functions, libraries, or sports facilities to reduce costs. You could even explore more transformative ventures, like sharing a data centre for AI research. Again, these kinds of collaboration between HE providers are unlikely to pose a problem under competition law.

## Partnerships for course provision

Providers may also collaborate in course provision, for example by jointly running courses. These types of collaboration may not be a problem – an example might be where there are many providers offering a course nationally and the course tends to attract students from across the country who will have other good options.

If you are considering these types of collaboration, make sure to check our guidance on horizontal agreements, which sets out in more detail how competition law applies to arrangements between actual or potential competitors.

Read our guidance on [horizontal agreements](#): including section 3 on the assessment of horizontal agreements generally, and section 6 on purchasing

agreements.

## Mergers or group integration with other HE providers

Merging with another provider can be a legitimate strategy for transforming your organisation and the goods or services you offer. You can engage in discussions with other providers about potential mergers of your institutions or their integration into a corporate group – there is nothing stopping you from doing so.

The CMA has a statutory duty to review certain mergers. If you are considering a potential merger, we have published some easy-to-use guides to help you understand:

- [how the CMA investigates mergers](#)
- [how to tell the CMA about a merger](#)
- [how we will engage with you and your advisors during any investigation](#)

## Working together with non-HE providers

You might also be thinking about collaborations with organisations outside the HE sector. For example, these could be with further education providers, or with businesses in local industries. These kinds of partnerships can bring about benefits like enhanced career opportunities for students and clearer pathways for skills important to the UK economy.

Generally speaking, these kinds of partnerships are less likely to pose competition law concerns than those where the entities collaborating are competing (or could compete) in the HE services they provide and the students they serve.

## Research and development

Research and development (R&D) cooperation can bring together the complementary skills and assets of businesses, start-ups, academic bodies and research institutes, and can lead to significant economic benefits.

R&D agreements entered into by non-competitors generally will not raise competition law concerns. Often they will be pro-competitive.

We have published more detail on R&D agreements, including those that generally do not raise competition concerns. Read our [guidance on horizontal agreements](#) (including section 4 on R&D agreements) if you are interested in collaborations that could help accelerate innovative research and the development of new technologies.

## How to seek further help

If you have specific questions or concerns, you may need to seek specialist legal advice.

It may be possible to obtain free legal advice from organisations such as the [Competition Pro Bono Scheme](#).

While we can't provide legal advice, we may be able to step in if HE providers are being put off collaborating in ways that may be beneficial to students or the wider economy because of uncertainty about how competition law applies. If you have conducted a self-assessment of your proposed collaboration, and how competition law applies to it, and would find it helpful to speak with us, you can contact us by emailing [collaborations@cma.gov.uk](mailto:collaborations@cma.gov.uk)

## Students and consumer protection law

Consumer law generally applies to your relationship with students. The key issues are information provision, terms and conditions, and complaint handling.

If you are unsure how consumer protection law applies to the products and services you offer to students, you can find CMA consumer law advice relevant to HE providers on the following pages:

- [Consumer law advice for higher education providers](#)
- [Selling goods and services: complying with consumer law](#)

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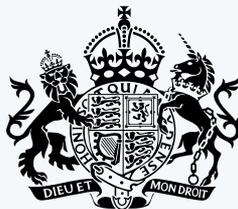
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