



JCRA Guideline 8

How to raise a complaint

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What this guideline is about

This guideline is one in a series of publications designed to inform businesses and consumers about how we, the Jersey Competition Regulatory Authority (the Authority), applies competition law in Jersey.

The purpose of this guideline is to explain to consumers, businesses and their advisers the procedures that the Authority uses to investigate potential infringements of the Competition (Jersey) Law 2005.

This guideline should not be relied on as a substitute for the Law itself. If you have any doubts about your position under the Law, you should seek legal advice.

1. Introduction

What is the JCRA?

The Authority's aim is to ensure that consumers received the best value, choice and access to high quality services, in addition to promoting competition and consumers' interests.

What powers does the JCRA have?

The Authority has a wide range of powers to investigate businesses suspected of breaching the laws it is responsible for. We can order that offending agreements or conduct be stopped and levy financial penalties on businesses and individuals for the breach.

What laws does the JCRA have responsibility for?

The Authority has the responsibility for the Competition (Jersey) Law 2005 which prohibits anti-competitive behaviour arising from anti-competitive agreements between businesses or the abuse of a dominant position in a market. Certain mergers and acquisitions are required to be notified to the Authority for approval.

The Authority is responsible for administering and enforcing the Postal Services (Jersey) Law 2004, the Air and Sea Ports (Incorporation) (Jersey) Law 2015, and the Telecommunications (Jersey) Law 2002, and associated Directions issued by the Government of Jersey.

In this guideline, this legislation is referred to as 'Sector-Specific Legislation'.

What types of organisation are considered a 'business'?

Throughout this guideline, we refer to a 'business'. This term (also referred to as an 'undertaking' in the respective laws) means any entity engaged in economic activity, irrespective of its legal status, including companies, partners, cooperatives, Government departments and individuals operating as sole traders.

2. Why should you complain?

The Authority has no power to 'spot check' businesses to ensure that they are complying with the laws we are responsible for. We may only initiate a formal investigation if we have 'reasonable cause to suspect' that a business has breached the law or a condition of its licence.

We may assess that there is 'reasonable cause to suspect' that an infringement has occurred, or is occurring, from media reports, from market intelligence, or from anecdotal evidence. Often,

however, the matters are not in the public domain, and we therefore encourage businesses and consumers who suspect that a business is infringing the law or its licence to contact us to make a complaint. We will then assess the complaint to see if there are grounds to commence an investigation under the laws.

3. What if you are not sure whether a business is breaching the law?

If, after reading the JCRA's guidelines, you are unsure whether or not to make a complaint, please contact us to discuss the matter in more detail.

4. What information will you have to provide?

Once you have contacted us to discuss a complaint, we may ask you to provide us with more information. It is important to provide us with the full facts of the case and as much supporting evidence as possible, to enable us to process the complaint in an efficient and timely manner.

We prefer that, whenever possible, information is provided in writing. This enables us to carry out an initial assessment of your complaint as quickly as possible.

Examples of the information we may request include:

- the name(s) of the business(es) you believe are infringing or have infringed the law or its licence;
- a description of the behaviour that has resulted in the complaint and the effect that the behaviour has had on you;
- details of the products and/or services in question;
- any relevant hard copy documentation - this may be emails, contracts, letters and/or notes of telephone conversations;
- whether the matter is urgent, and if so why; and
- whether any of the details of the complaint (including your identity) are confidential.

The Need to Provide True and Accurate Information

It is a criminal offence to knowingly or recklessly provide us with information that is false or misleading. The information contained in a complaint therefore must be true and accurate to the best of your knowledge and belief.

5. What happens to my complaint?

We will first check that the complaint can be dealt with under the laws we are responsible for, and will let you know if it relates to different legislation, or should be handled by another body such as Trading Standards, the Citizens' Advice Bureau or the Financial Services Commission.

We conduct a preliminary assessment to determine the likelihood of finding a breach of the law or a licence condition. We would normally expect to complete a preliminary assessment within two weeks, depending on the availability of information, the complexity and perceived urgency of the matter.

Having conducted a preliminary assessment, we determine whether a reasonable cause to suspect exists and, if so, if and when to commence a formal investigation. Even if a reasonable cause to suspect exists, we may still decide either not to commence a formal investigation, or to delay its initiation. Our decision will depend on considerations such as:

- the gravity of the conduct involved; the harm or potential harm caused to the Jersey economy, consumers, or businesses;
- whether the dispute is more applicable to private resolution
- among the parties involved; the matter's apparent urgency; and
- other activities that we are currently undertaking.

In all cases, we will let you know how we are dealing with your complaint, give you a contact name, and will keep you informed of any progress. You may contact us for an update at any time.

For more information on how we conduct investigations see JCRA Guideline 10 – Investigation Procedures.

6. Confidentiality

The laws require us to keep confidential non-public information we receive. This requirement does not apply to information where parties give their consent for disclosure.

To investigate a complaint fully, we often need to reveal the information we have obtained, and the source of that information, to the business being investigated. However we will protect your identity as far as possible, and we will get your consent before we disclose your identity to any third party. In some cases your identity may be apparent to the business when we inform it that we have received a complaint.

When submitting a complaint, if you consider that the information you provide might seriously damage your commercial interests if it is disclosed, you should clearly mark it as confidential, and explain to us why it should be treated as such. We do not accept blanket requests for confidentiality.

7. How can I find out more?

Please contact us if you have a question about the laws the JCRA are responsible for, or if you suspect that a business is breaching the law and wish to complain or discuss your concerns:

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Publications

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