Cooley

# UK Competition and Markets Authority Publishes Guidance for HR Teams When Competing for Talent

October 10, 2025

On 9 September 2025, the UK Competition and Markets Authority (CMA) published new guidance on how competition law applies to recruiting workers, setting pay and other working conditions. The guidance builds on a recent string of enforcement cases both by the CMA and other competition regulators into labour market and recruitment practices, and sets out how the CMA views competition in the labour market.

We have summarised the key points of the guidance below, as well as what this means for human resources (HR) teams and professionals responsible for employees and recruitment in the UK.

## How is competition law relevant to HR?

The guidance acknowledges that HR professionals, recruiters, employers and employees will interact with one another as part of their professional network, and that many of these contacts are not problematic from a competition law perspective.

However, just as businesses compete for customers, they also compete for talent, and in that context, there are certain behaviours which are considered anti-competitive, namely:

- No-poach agreements
- Wage fixing
- Exchange of competitively sensitive information

The guidance is explicit that agreements do not need to be formal or in writing in order to potentially raise concerns, and even unilateral disclosures of competitively sensitive information can be caught.

Importantly, the guidance is explicit that the concept of a "competitor" is broader within an HR and recruitment context. The CMA clarifies that companies do not have to be competing for the same customers and have overlapping products and services in order to be considered competitors in the labour market. By way of example, the guidance provides that while a manufacturing company and software company might not compete when selling products, if both need software engineers, they would be considered competitors in the labour market.

## No-poach agreements

"No-poaching" is when a business agrees not to hire employees from another business, including through no-hire or nonsolicitation agreements, or agrees not to approach or hire employees without first seeking the consent of the other business. This is generally prohibited, even if there is no mutual agreement between two companies.

The guidance distinguishes such anti-competitive no-poaching from nonsolicitation clauses that might be included in certain types of commercial agreements. The guidance notes that these nonsolicitation clauses, under which a client agrees not to hire or solicit the service provider's employees for the duration of the contract, do not necessarily break competition law, if they are necessary to enable the agreement and are proportionate to its overall objective. In addition, the clause's duration, subject matter and geographic scope should be limited to what is reasonably required.

# Wage fixing

Wage fixing has been a recent enforcement focus of the CMA. In March 2025, the CMA imposed fines on UK sports broadcasters for colluding on rates of pay for freelancers.

The guidance reaffirms the principle that agreements between businesses on fixing pay (including raises or caps), benefits or other employment conditions are considered anti-competitive. The guidance specifically confirms that agreements reached as part of industry forums and recommendations by trade associations can fall foul of competition law.

# Exchange of competitively sensitive information

The guidance reiterates the long-standing competition law principle that competing businesses should not disclose competitively sensitive information – i.e. information which could influence the competitive strategy of the other business, or which reduces overall market uncertainty to each other. In the labour context, this includes:

- Information on future pay intentions
- Specifics on current pay (e.g. to freelancers) and benefits packages
- Recruitment strategies

The guidance is clear that information exchange does not need to be mutual in order to raise concerns, and that a recipient of commercially sensitive information will be presumed to take this into account and adapt its conduct accordingly, unless it publicly distances itself from the information received or reports this to the appropriate authorities.

The guidance does acknowledge that benchmarking against the best practices of another business can be beneficial as it helps HR managers to make informed decisions on pay, benefits and recruitment strategies. However, businesses need to ensure that benchmarking is not done based on competitively sensitive information which has not been anonymised and sufficiently aggregated. In this context, the CMA draws a distinction between, for example, an HR consultancy publishing an anonymised report based on input from 200 companies (unlikely to raise concerns) and one produced based on input from three (likely to raise concerns).

Finally, the guidance clarifies that the CMA will not typically seek to enforce competition law when workers and companies come together for genuine collective bargaining. However, it warns that employers and self-employed workers and their organisations should not exchange competitively sensitive information or gather information to prepare for collective bargaining, unless absolutely necessary.

# Key takeaways

The guidance dispels any lingering myth that competition law is not relevant to HR processes and professionals. In addition to refraining from entering into no-poaching or wage-fixing arrangements, companies should:

- Ensure that HR and in-house recruitment personnel are aware of their antitrust obligations and regularly trained, including on what to do if unprompted commercially sensitive information is received.
- Review any terms on which any benchmarking material is provided to and received from third parties, and ensure this does not result in the exchange of commercially sensitive information.
- Prepare guidelines for staff attending industry events and trade associations.
- Audit existing commercial agreements for existing no-poach and nonsolicit clauses.

be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. When advising companies, our attorney-client relationship is with the company, not with any individual. This content may have been generated with the assistance of artificial intelligence (AI) in accordance with our AI Principles, may be considered Attorney Advertising and is subject to our legal notices.

# Key Contacts


| | |
|---|---|
| Caroline Hobson<br>London | chobson@cooley.com<br>+44 20 7556 4522 |
| Chris Stack<br>London | cstack@cooley.com<br>+44 (0)20 7556 4389 |
| Anna Caro<br>London | acaro@cooley.com<br>+44 20 7556 4329 |