

SEC14D11

Competition and Markets Authority Consultation on Draft Advice for HE providers on Consumer Protection Law

Produced by:	Connor Rand, UG Education Officer
To:	Student Experience Committee
Date:	11th Feb

Introduction

1. The Committee is asked to **note** the recent consultation by the Competition and Markets Authority on draft advice for HE providers.
2. The Committee is asked to **consider** the application of the CMA's advice to current practice at UEA, particularly as regards the areas set out below.

The Consultation

1. The Competition and Markets Authority (CMA), successor to the Office for Fair Trading, has recently carried out work regarding university policies and student contracts in order to investigate how universities' current practices comply with consumer law. In November 2014 the CMA issued draft guidance for HE providers and sought feedback from HE providers and other sector organisations. UUEAS responded to the consultation on behalf of UEA students.
2. The draft guidance covers **three key areas**:
 - a. Information provided to applicants
 - b. Terms and conditions of the student contract
 - c. Complaints and appeals.

Information to applicants

3. Under consumer law, a provider needs to make available key information to enable the individual to make an informed choice. The CMA's advice sets out a list of what would constitute this 'material information' for universities and students, which is reproduced as Annex A.
4. UUEAS believes that the following aspects of the CMA's guidance are of particular relevance to UEA, and that the University would benefit from considering current practice in the light of the draft advice.

a. Information about the composition and delivery of the course

The CMA advise that material information includes details regarding both composition of the course (e.g. core and optional modules, placements etc.) and delivery of teaching (expected workload, number of seminars, assessments etc.). Whilst UEA currently provides much of this, we believe that there are opportunities for improvement. For instance, increased information about timetables would assist students in choosing and planning for their course, particularly when they are combining their study with employment.

b. Information about tuition fees

The CMA advice specifically mentions the provision of information regarding future fees for which the student will be liable. Whilst UEA provides adequate details regarding initial fees, information about fees for further years is not set out in detail at present.¹

c. Information about expected costs of study, in particular as regards to additional course costs

The Union believes that there is currently a lack of information for applicants regarding the additional costs of study. At a minimum, this information should include robust and comprehensive estimates of living costs, which include the costs of additional course costs (e.g. books, placement travel, parking).

d. Information about entry requirements,

Material information regarding entry requirements potentially extends to offers made during clearing which are below the published tariff. This means that applicants should be informed of this practice in a way which enables them to make informed choices.

Terms and Conditions

5. The CMA's advice focuses on terms with a wide discretion to vary fees and course content, terms limiting liability and terms reserving intellectual property rights. The CMA has also re-emphasised the earlier guidance issued by the OFT

¹ Current website wording is 'For further years of study there will be a slight increase in tuition fees for continuing students. Ordinarily the fees for the following academic year will be published by January 2016.' www.uea.ac.uk/study/international/fees-and-funding/fees

regarding withholding graduation due to non-payment of non-academic debt². In the Union's consultation, the following issues were of particular concern to students.

a) Terms allowing discretion to increase fees

The University's General Regulations currently contain a provision that 'The University reserves the right to revise fees and charges at any time.'³ We consider that this is the kind of blanket provision which the CMA advice suggests may not comply with consumer law.

b) Terms allowing discretion to vary course content and structure

This is an area where current arrangements are unclear. Whilst the University does not appear to rely upon an exclusion of liability term such as that described by the CMA, there is a lack of clarity as to what kind of course change would potentially constitute a breach of the student contract. Better information would assist in making clear the rights of students in the case of course variation or closure. We consider this to be of particular relevance at a time when the University is regularly considering course changes, school reorganisation or modules closures.

c) Terms reserving intellectual property rights to the institution

The University's regulations currently contain the following provision:

Unless otherwise agreed in writing all research students as a precondition of registration for their research degree agree to formally assign any IP arising from their studies to the University should the University, at its sole discretion, request them to do so.⁴

The CMA's advice suggests that the blanket nature of this term may make it open to challenge.

d) Terms that prevent students from graduating if they owe non-academic debt

²http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.offt.gov.uk/shared_offt/consumer-enforcement/OFT1522.pdf

³ [https://www.uea.ac.uk/calendar/section3/regs\(gen\)/fees-and-charges](https://www.uea.ac.uk/calendar/section3/regs(gen)/fees-and-charges)

⁴ [https://www.uea.ac.uk/calendar/section3/regs\(gen\)/intellectual-property-rights](https://www.uea.ac.uk/calendar/section3/regs(gen)/intellectual-property-rights), para. 5.2

The CMA's advice references the OFT's earlier guidance that the use of academic sanctions for non-payment of non-academic debt is open to challenge as an unfair term.

6. The CMA have also focused on student awareness of their contract with the University. Whilst the components of the contract (the Calendar, General Regulation and Academic Regulations) are available on the University's website, there is scope for these to be made clearer for students. For instance, other institutions have placed a specific copy of the student contract on their website or have taken steps to highlight to students that the regulations form part of their contract of study. The University may also wish to review the regulations themselves in the light of the CMA's guidance in order to check for any especially onerous or potentially unfair terms.

Complaints and Appeals

7. The CMA's advice for this third area contains significant overlap with the QAA Quality Code Chapter B9 and with best practice guidance issued by the Office of the Independent Adjudicator (OIA). The suggested guidance is that any procedures and practices are 'easy to locate, accessible, clear and fair to students.' In particular, the CMA recommends that students receive information about complaints procedures *before* accepting an offer of a course and that procedures are easily located online and provided in writing.

ANNEXE A: CMA guidance on 'Material Information'

In our view, among other things, it is important for students to have full information about courses and their costs. There is likely to be other information that students consider important, such as in respect of accommodation options and the availability of funding and support. These are not covered by this advice. The type of information that is 'material information' under the CPRs is likely to include the following.

(a) Course information, including:

- (i) course title;
- (ii) entry requirements;
- (iii) core and optional modules for each year of study;
- (iv) information about the composition of the course and how it will be delivered, such as the number and type of contact hours (for example, lectures, seminars, work placements, feedback on assignments), expected workload of students, details about the staff involved in delivering the course;
- (v) how the course is assessed, for example by exams, coursework or practical assessments, etc;
- (vi) the award to be received on successful completion of the course and, if relevant, the awarding body or institution;
- (vii) location of study – this should also include the location of any work placements to be undertaken (where known);
- (viii) length of the course;
- (ix) whether the course is regulated and by whom;
- (x) whether the course is accredited, for example by a Professional, Statutory and Regulatory Body, and by whom; and
- (xi) any particular terms of the HE provider's rules and regulations that apply to the course that students may find surprising or are otherwise important.

(b) Total course costs, including:

- (i) **tuition fees** – this should include, if applicable, whether fees in future years will increase, by how much (for example, in line with inflation) and which students increases would apply to. If the future fee is not known,

you should indicate clearly the criteria for any future changes and how the changes will be calculated. Note that any possible fee increases should be restricted to limited circumstances where the HE provider has valid reasons for making the change; and

(ii) **other extra costs** students are likely to incur, such as for field trips, equipment, materials, bench fees or studio hire. You should also indicate how much these extra costs are or are likely to be (and if they are unknown or uncertain, set out how they will be calculated) and whether they are optional or mandatory for completion of the course.