

**Title:** *Competition and Markets Authority: UEA Action Plan*  
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## **Issue**

The Competition and Markets Authority (CMA) has recently written to Universities and other Higher Education Providers (HEPs) to highlight their obligations with respect to compliance with consumer protection law. This is the latest in a number of communications with the sector from the CMA and one of its predecessor bodies the Office of Fair Trading (OFT). The original contact related to the practice of applying academic sanctions in respect of non-academic debts but the latest information relates to the entire student contract with HEPs.

This paper provides an update of the actions being taken by the University to ensure that best practice is adopted across the range of courses offered.

## **Recommendation**

Recipients are asked to note the contents of this paper and to make any appropriate observations. Further updates will be provided as the project develops and we are currently working to an implementation timeline of 1 October 2015 (with progressive implementation as appropriate prior to that deadline).

## **Resource Implications**

There are no additional personnel requirements identified though as this has to be regarded as a priority project there may be delays to other projects those people would have been working on. There will be a requirement for some work to improve the website but this will primarily relate to re-grouping of information currently held.

## **Risk Implications**

There is significant risk to organisations which are found to be non-compliant with consumer protection law. These range from the relevant contracts being deemed to be unenforceable, through to fines and significant reputational damage. The aim of our activities are to reduce to an absolute minimum the risks of non-compliance.

## **Equality and Diversity**

As part of our review of terms and conditions and other aspects of the Consumer Protection legislation we will seek to ensure compliance with the university's obligations under the Equality

Act 2010. This particular activity is not thought to apply any differential impacts on any protected characteristics.

### **Timing of decisions**

This is the first in a series of updates to the Student Experience Committee. Further updates will be provided as and when appropriate with an aim to conclude the major part of this work by 1 October 2015.

### **Further Information**

Further information is available from Ian Callaghan, Director of Planning ([i.callaghan@uea.ac.uk](mailto:i.callaghan@uea.ac.uk), extension 2227).

### **Background**

In July 2013 the OFT launched an initial investigation into Universities' practices regarding the use of academic sanctions in connection with enforcement of non-academic matters. The primary consideration was the practice of withholding degree certificates, other academic information for students and/or preventing progression from one year to the next for students who were indebted to universities for sums that were either insignificant or could not absolutely be described as academic debts (i.e. were not tuition fees). UEA was one of a large number of institutions that operated this practice but ceased to do so with immediate effect in July 2013. This requirement also relates to the use of academic sanctions for non-academic disciplinary cases.

The whole topic has since become much higher profile no doubt linked to the significant increase in fees for students and has culminated in the latest advice issued in March 2015. The subject has also been discussed at the Student Experience Committee and we have established a small group looking at the University's Terms and Conditions. Currently this group consists of:

Ian Callaghan, Director of Planning  
David Giles, Head of Admissions  
Melvyn Risebrow, Visa Policy, Operations and Compliance Manager

The initial activities of this group are to consider all of the areas where potential breaches may occur and to ensure that the student life cycle is covered and reviewed. This group most recently met on 15<sup>th</sup> April and detailed below are the next steps that will be taken as a result. It is expected that student involvement and consultation in this process will be via the Student Experience Committee (either in person or electronically).

The key areas to ensure compliance are with:

CPR: Consumer Protection from Unfair Trading Regulations 2008; and  
CCR: Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

The key requirements are detailed in the summary of the document at Appendix 1 (pages 5-8) of the CMA guidance: <https://www.gov.uk/government/collections/higher-education-consumer-law-advice-for-providers-and-students>).

It is clear from the CMA requirements that the expectation is that there will be clear terms and conditions together with other relevant information published ideally on the website and in one place. A first draft of proposed terms and conditions has been prepared and these are currently being considered by the Heads of Service across the University. There is also a requirement to ensure that any material changes are advised to students as quickly as possible and that

terms and conditions are fair. This is particularly true where the institution may seek to restrict rights or where there is an imbalance between rights and obligations. For example, blanket assignment of intellectual property, terms limiting an HE provider's liability for non-performance or sub-standard performance of the educational service or unreasonably wide discretion to vary course content or increase fees during the duration of the course may be regarded as unreasonable. We have specifically addressed the fees question by ensuring that there is a clear statement on the website (<http://portal.uea.ac.uk/planningoffice/tuition-fees>) regarding fee increases and limiting them to a maximum percentage. Fees information will be one of the key areas that will need to transfer to the new "compliance" web pages.

## **Discussion**

The next steps proposed are as follows:

1. Circulate a first draft of terms and conditions to Directors of University Services for consideration and comment. A final draft will be submitted to members of the Student Experience Committee (probably by email) prior to submission to Council;
2. Work through the student lifecycle and identify the key risk points, classify the level of risk and identify solutions;
3. Create a central website to contain:
  - a. Standard university terms and conditions;
  - b. Tuition fee information;
  - c. General regulations for students;
  - d. Course specific regulations;
  - e. Disciplinary procedures;
  - f. Intellectual property regulations.
4. Review the regulatory framework to identify whether there are any contradictions or areas of anomaly between the various regulations and to ensure there are no areas where a breach of the CMA requirements could occur;
5. Review the disciplinary framework to identify whether there are any contradictions or areas of anomaly between the various regulations and to ensure there are no areas where a breach of the CMA requirements could occur.

It is also relevant to note that whilst the published CMA guidelines specifically refer to undergraduate students this project will address all categories of student.