

UNIVERSITIES AND CONSUMER RIGHTS

**FINDINGS OF THE UNIVERSITIES UK
SELF-ASSESSMENT EXERCISE**



Universities UK

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INTRODUCTION

The importance of consumer rights standards for higher education has increased following the clarification of the law by the Competition and Markets Authority (CMA) in 2015. This report summarises the findings of a Universities UK (UUK) self-assessment exercise, designed to help universities evaluate their approach. It finds that UK universities have been proactive in reviewing their practices and are increasingly confident that they comply with the letter and spirit of the law, and are committed to building on this progress.

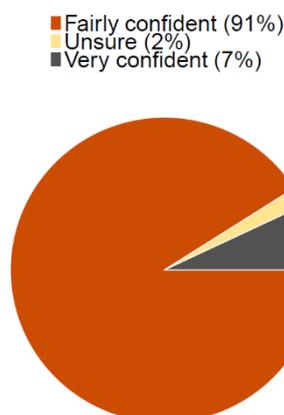
A central feature of higher education is the collaborative relationship between university and student. This relationship enables and challenges students to achieve their learning goals in a supportive academic environment, and is multi-faceted, encompassing teaching, pastoral care and delivery of services such as accommodation. The relationship may differ depending on the educational ethos of a university and the academic, professional or personal aims of its students.

Underpinning this relationship are the requirements of consumer protection law. These requirements place a duty on universities to ensure that students who invest time and money in their education are treated fairly. In 2015 the CMA emphasised the need for the sector to provide:

- upfront, clear, transparent and accurate information that allows students to make informed choices about where to study
- fair and balanced terms and conditions that provide a clear contractual relationship between a student and their university
- robust, accessible and clear complaint handling processes that allow students to hold universities to account

Consumer law should not require wholesale revision to the ethos of the relationship between a university and student. In most cases requirements build on the existing commitment of universities to treat their students fairly. However, the legal clarification has aided the updating of admissions processes and university regulations to ensure compliance, and has highlighted the importance of ongoing university-wide efforts to ensure that information for students is timely and accurate. The ongoing challenge for the sector will be to protect the essential features of the academic relationship between students and universities.

Figure 1: How confident are you that you meet your duties to students under consumer rights law?



CONTEXT

In 2015 the CMA published [*UK higher education providers – advice on consumer protection law*](#), clarifying what universities should do in core areas such as information provision to current and prospective students, terms and conditions, and complaints processes and practices. In the CMA’s view, the time and investment that students commit to their studies, and potential disruption if they are dissatisfied, means they are in a relatively weak position as customers.

The CMA guidance covers the UK as a whole. The primary consumer rights legislation that applies to universities is as follows:

- **Consumer Protection from Unfair Trading Regulations 2008 (CPRS):** These regulations apply from before a student has accepted an offer through to enrolment. They prevent the use of unfair commercial practices towards consumers.
- **Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013:** The CCRs require universities to give students access to certain information before the contractual relationship is formed and to inform students of their cancellation rights if the contract is made off-premises.
- **Consumer Rights Act 2015 (CRA):** This act makes provision for a student to demand ‘repeat performance’ as a remedy if a contract has not been fulfilled with ‘reasonable care and skill’. The contract is taken to include anything said to the consumer by, or on behalf of, the provider which influences the consumer’s decision to enter into the contract.

The CMA may undertake compliance action against a provider and is also committed to working with the sector to improve practice. In England, compliance is now a condition of access to public funds, and will be a requirement for entry onto the higher education register under the Office for Students. These changes take place in the context of the Higher Education and Research bill that will encourage entry of new providers and competition between institutions.

UUK CONSUMER RIGHTS SELF-ASSESSMENT SURVEY

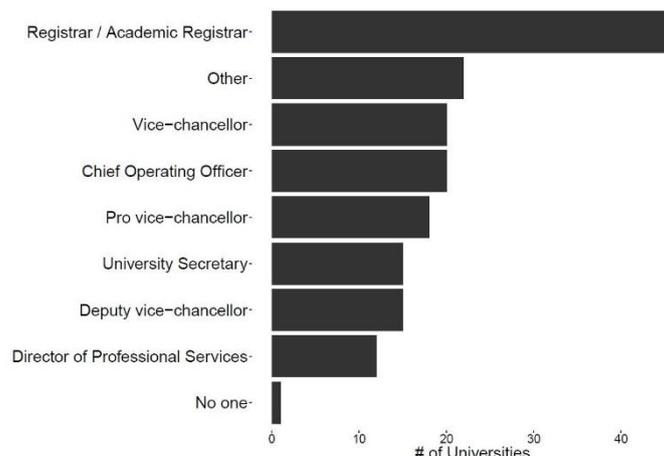
In April 2016 UUK distributed a self-assessment survey to all member institutions. The survey aimed to gauge current levels of compliance across the sector, highlight key considerations for universities and help them evaluate their progress to date. The significant levels of sector engagement with compliance was evidenced by the high response rate of 104 institutions completing the survey. Respondent universities were sent customised reports to help them benchmark their levels of compliance.

The sector has made significant progress to ensure it is compliant with the law. 98% of respondents to UUK's self-assessment survey considered themselves either fairly or very confident that they were meeting their compliance duties. This is supported by the CMA's [2016 review of university compliance](#) that noted progress made by the sector alongside identifying areas for further work.

Universities take the issue of consumer rights compliance seriously. 93% of universities have conducted an institutional review of compliance following the publication of the CMA guidance, and 71% of respondents explicitly included compliance on their institutional risk register, most commonly as a medium operational risk.

Inclusion on an institutional risk register means compliance is on the agenda of senior management and embedded into an institution's recruitment, offer and enrolment procedures. The registrar, university secretary or chief operating officer held board-level ownership of compliance in 79% universities, while nearly 40% of universities reported that their vice-chancellor or pro-vice chancellor held ownership.

Figure 2: Who has board-level ownership of your compliance with consumer protection regulations?



STUDENT INFORMATION

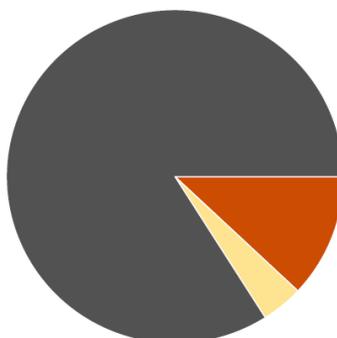
Prospective students must be given clear, unambiguous and timely information so that they can make informed choices with confidence. To achieve this, universities are expected to provide important information on their courses throughout the different stages of the application process. This includes providing appropriate 'pre-contract' information prior to students accepting their course offer, ensuring that information remains accurate and clearly signposting important terms and conditions.

Universities have taken a number of actions to ensure that they meet these requirements:

- 80% of institutions have a policy or follow guidelines on the type of information that should be presented to students.
- 84% of institutions are providing more information to prospective students following the publication of CMA guidance on consumer regulation.

Figure 3: Following the CMA guidance, have you changed the information that is typically presented about programmes?

■ No changes (12%)
■ Provide less information (4%)
■ Provide more information (84%)

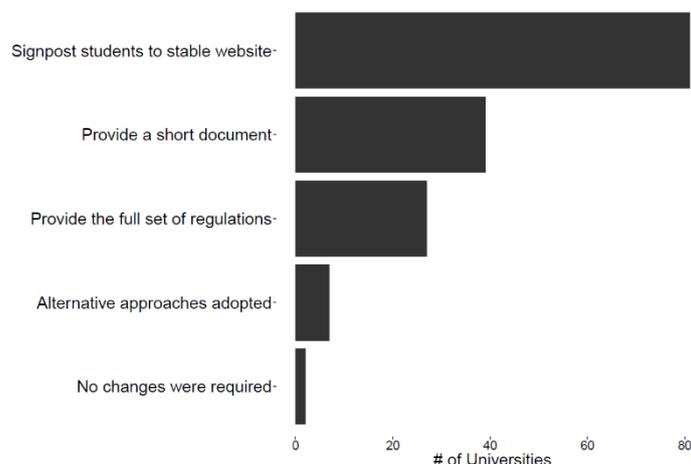


TERMS AND CONDITIONS

Terms and conditions govern the relationship between students and universities. They confer responsibilities and expectations on both. Institutions must ensure their terms and conditions are fair, presented to the students in an accessible and durable form and that surprising or important terms are highlighted. If a term is found to be unfair by a court, it would not be binding on students and cannot be enforced.

- 84% of institutions reported that they now signpost students to terms, conditions and regulations on a stable website. This approach increases transparency and accessibility for students.
- Institutions have changed their terms and conditions to address areas of non-compliance. This includes terms regarding changes to tuition fees (46%), changes to academic programmes (57%) and academic sanctions for non-academic debt (46%). Furthermore, where no changes had been made, in the majority of cases this was because the institution was already compliant.

Figure 4: What changes, if any, have you made to how terms and conditions or regulations are presented to students at offer stage?



PROGRAMME CHANGES

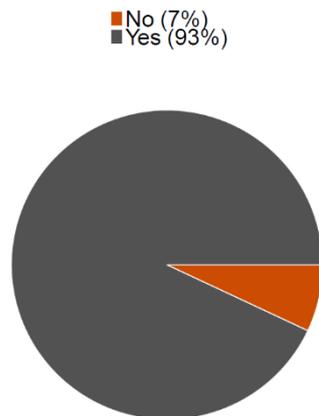
Course content and delivery forms part of a student's pre-contract information and becomes the contract terms once an offer has been accepted, meaning that any subsequent programme changes should be considered carefully and communicated clearly. Changes may be necessary for a number of reasons such as changing staff, changing demand, timetable issues and actions of external accrediting bodies.

It is important that students are made aware of the likelihood of, and scope for, changes to the content and delivery of their courses. This includes telling students what may change, when this change may happen and the process by which it would happen. Students should also be involved in this process where possible. This requires universities to think about institutional procedures and policies for making changes to courses:

- Changes reported by institutions as 'major' are broadly in line with those identified in the CMA's guidance. An example of this is tuition fee changes.
- 93% of universities report having institutional policies in place to manage programme changes, and 90% said they give details of circumstances when programmes may be changed.
- Although 65% of institutions do report that they have an institutional deadline of making major changes to programmes, it remains a challenge to make all changes in time for prospective students to apply through the UCAS process.

- Improvements on the issue of course variation in the sector were reported by the CMA, but there remain some examples where unfair terms give providers a wide discretion to make changes, or for variation terms to be difficult to locate on providers' websites.

Figure 5: Do you have institutional policies in place to manage programme changes?



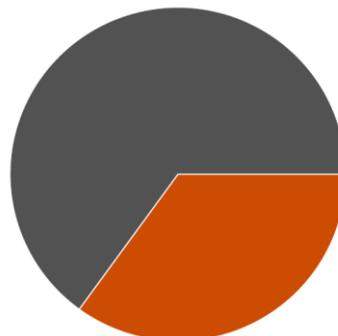
COMPLAINTS – PROCESSES AND PROCEDURES

An effective complaints procedure will foster good relationships with the student body, address grievances efficiently and contribute to the positive experience of both prospective and current students.

- 65% of institutions reported having put separate complaints procedures in place for current and prospective students.

Figure 6: Are complaints processes for current and prospective students covered by a single complaints procedure or a separate complaints procedure?

■ A single complaints procedure (35%)
■ Separate complaints procedure (65%)



NEXT STEPS

As shown by this exercise the sector is committed to ensuring that it complies with consumer rights law and has made progress in updating its practices. However, the CMA did identify examples of practice that still require change, such as terms that allowed wide discretion to vary fees and course content or policies that potentially act as a barrier to complaints. As the legal framework has been in place for a number of years the expectation is that universities should now be compliant.

As the sector continues to embed consumer rights into its work it will be important to ensure that the features of the educational relationship are protected. The relationship between students and their university is not a conventional transaction between customer and supplier. Students benefit from being supported and challenged to achieve educational goals. Consumer rights should make a positive contribution to this relationship by helping to ensure that it is fair and transparent.

FURTHER READING

- CMA (2016) *Consumer Law Compliance Review: Higher Education undergraduate sector findings report*:
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<https://assets.publishing.service.gov.uk/media/5335598ce5274a571e00000f/OFT1529ss.pdf>
- UUK (2015) *Competition and Markets Authority guidance to universities – next steps and implementation*.

This publication has been produced by Universities UK (UUK), the representative organisation for the UK's universities. Founded in 1918, its mission is to be the voice of universities in the UK, providing high quality leadership and support to its members to promote a successful and diverse higher education sector. With 135 members and offices in London, Cardiff (Universities Wales) and Edinburgh (Universities Scotland), it promotes the strength and success of UK universities nationally and internationally.

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