

# Higher education

Undergraduate students:  
your rights under consumer law

© Crown copyright 2015

You may reuse this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence.

To view this licence, visit [www.nationalarchives.gov.uk/doc/open-government-licence/](http://www.nationalarchives.gov.uk/doc/open-government-licence/) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Any enquiries regarding this publication should be sent to us at: HE Consumer Compliance Team, Competition and Markets Authority, Victoria House, 37 Southampton Row, London, WC1B 4AD or by email to [HEconsumercompliance@cma.gsi.gov.uk](mailto:HEconsumercompliance@cma.gsi.gov.uk).

This publication is also available from the CMA's webpages at [www.gov.uk/cma](http://www.gov.uk/cma).

## Contents

	<i>Page</i>
1. Scope.....	2
2. Information provision.....	4
3. Terms and conditions.....	11
4. Complaint handling processes and practices.....	17
5. What can I do if I have a concern?.....	19
Annex A – Overview of consumer law.....	22

# 1. Scope

## Who is this guide for?

- 1.1 This guide is for prospective and current UK undergraduate students and their advisers. The focus of the guide is on their rights under consumer protection law in relation to the provision of educational services.
- 1.2 A short summary of this student guide is available on the Competition and Markets Authority's<sup>1</sup> (CMA) webpages.<sup>2</sup>
- 1.3 The CMA has also published detailed advice for universities, Further Education (FE) colleges and other institutions that offer Higher Education (HE) courses in the UK to help them understand their responsibilities under consumer law when dealing with undergraduate students. A copy is available on the CMA's webpages.<sup>3</sup>
- 1.4 In this guide, for ease, we refer to all UK institutions that provide HE undergraduate courses as 'universities'.
- 1.5 This guide sets out the minimum legal requirements for compliance with consumer law and the views of the CMA. Only a court is able to give a definitive interpretation of the law and how it applies to individual circumstances. This guide is not a substitute for legal advice, which students may wish to seek.

## How does consumer law apply to students?

- 1.6 Consumer law will generally apply to the relationship between universities and undergraduate students, as undergraduate students will generally be studying for purposes which are outside their trade, business or profession.

## Why is it important to know my consumer rights?

- 1.7 Knowing your consumer rights should help you to get the information you need when deciding which university and course to choose, get fair treatment once there, and help you progress any complaints you may have should you

---

<sup>1</sup> The CMA is a non-ministerial department formed on 1 April 2014. It is a unified competition and consumer authority which took over many of the functions formerly performed by the Competition Commission and the Office of Fair Trading. The CMA's mission is to make markets work well in the interests of consumers, businesses and the economy.

<sup>2</sup> See the [short summary](#) of this student advice.

<sup>3</sup> See the [detailed advice](#) on the CMA's webpages.

subsequently be dissatisfied with your choice or an aspect of the educational service.

## What does this guide cover?

1.8 This guide covers three key consumer law issues for students:

- Information provision – universities need to provide up front, clear, intelligible, unambiguous and timely information.
- Terms and conditions – universities' terms and conditions that apply to students need to be fair and balanced.
- Complaint handling processes and practices – universities need to ensure their complaint handling processes and practices are accessible, clear and fair to students.

1.9 This advice focuses on compliance with the following consumer legislation:

- Consumer Protection from Unfair Trading Regulations 2008 (CPRs).<sup>4</sup>
- Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (CCRs).<sup>5</sup>
- Unfair terms legislation (at the date of publication, the relevant legislation is the Unfair Terms in Consumer Contracts Regulations 1999 (UTCCRs)).<sup>6</sup>

1.10 See Annex A for further details including upcoming changes to consumer law, in particular regarding the law about unfair terms in consumer contracts.

---

<sup>4</sup> See the [Consumer Protection from Unfair Trading Regulations 2008](#).

<sup>5</sup> See the [Consumer Contracts \(Information, Cancellation and Additional Charges\) Regulations 2013](#).

<sup>6</sup> See the [Unfair Terms in Consumer Contracts Regulations 1999](#).

## 2. Information provision

### Why is it important to be given information before I apply?

2.1 Deciding what and where to study is a major decision. Many students invest a lot of time and money into their undergraduate education. It is important that universities give you the information you need so that you can make an informed choice about which universities and courses to apply for.

### What is material information?

2.2 It is a requirement of the CPRs that universities give you information up front, such as when they advertise courses, so that you can make an informed decision about where to apply. This is known as material information under the CPRs. In our view, material information is likely to include the following:

(a) Course information, including:

- the course title;
- the entry requirements (both academic and non-academic) and an indication of the standard/typical offer level criteria;
- the core modules for the course and an indication of likely optional modules, including whether there are any optional modules that are generally provided each year;
- information about the composition of the course and how it will be delivered, and the balance between the various elements. This will include the number and type of contact hours that you can expect – for example, lectures, seminars, work placements, and feedback on assignments. It will also include your expected workload, such as the expected self-study time, and details about the general level of experience or status of the staff involved in delivering the different elements of the course;<sup>7</sup>
- the overall method(s) of assessment for the course, for example by exams, coursework or practical assessments, or a combination of these;

---

<sup>7</sup> This would include general information about the experience or status of the staff involved in delivering the course – for example a professor, senior lecturer or postgraduate student.

- the award to be received on successful completion of the course and, if relevant, the awarding body or institution;
- the location of study or possible locations – this should also include the likely or possible location of any work placements to be undertaken (where known);
- the length of the course;
- whether the course and university is regulated and by whom, for example, where it is regulated by the Higher Education Funding Council for England or Higher Education Funding Council for Wales, or has a specific course designation;
- whether the course is accredited, for example by a Professional, Statutory or Regulatory Body, and by whom; and
- any particular terms, such as those in the university's rules and regulations, that apply to the course that you may find particularly surprising (for example, a term explaining that the body awarding the degree is different from the university running your course) or are otherwise important (for example any rules or regulations whose contravention might prevent you from completing your course).

(b) Total course costs, including:

- tuition fees – this should include, if applicable, whether fees in future years will increase and by how much (for example, in line with inflation). If increases will apply to only a certain group (such as international students) or in respect of a particular course, this should be made clear. If the future fee is not known, universities 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 university has valid reasons for making the change; and
- other extra costs you are likely to incur, for example field trips, bench fees or studio hire. Universities should also indicate how much these extra costs are or are likely to be. Where they are unknown or uncertain, universities should set out how they will be calculated and whether they are optional or mandatory for undertaking or passing the course. It is particularly important that universities highlight any course costs that are likely to have a direct impact on the outcome of your

academic success, such as a field trip on which a piece of work will be based.

- 2.3 Universities should also set out when and how fees and any other costs are payable and when you will become liable for payment.

### **What happens if I am not given the material information, it is presented in a misleading way, or I can't find it?**

- 2.4 Material information should be made easily accessible to you up front, including when you are considering which university and which course to apply to, and whether to accept any offers. For example, the information could be made available via the university's website, prospectus, and course and departmental handbooks. If this information is not provided or made available, or it is hidden or difficult to access, then under the CPRs this could constitute a breach of the law known as a misleading omission.
- 2.5 An example of a misleading omission could be where a university does not tell you about certain specific extra costs associated with studying a particular course, such as field trips for a geography course or studio hire for a design course – which, had you known about them, may have led you to have chosen a different course or university.

### **What happens if the information I am given is unclear and/or not correct?**

- 2.6 Universities must provide you with clear and correct information – it should not contain any inaccuracies that are likely to affect your decisions. Under the CPRs, giving misleading or outdated information or a misleading impression could constitute what is known as a misleading action. Examples of this are where a university:
- gives a misleading impression at an open day that a particular renowned professor will be involved in the teaching of the course when this is not the case;
  - presents information that suggests that a course provides a particular qualification by a professional body when this is not the case;
  - presents information that suggests progressing from a foundation to an undergraduate course will be automatic when a separate application for the undergraduate course will be required; and



- presents information, in wording or images, that for example suggests the location of the course will be in London, when this is not the case.
- 2.7 A university should make prospective students aware of any changes to material information as soon as possible, such as changes to the course fees or costs, or changes to the accreditation of the course. Not doing so may be a misleading omission under the CPRs.
- 2.8 It could also be a breach of the CPRs if a university engages in unfair commercial practices that are likely to distort the behaviour of the average person in a certain vulnerable group, bearing in mind the characteristics of that group. For example, certain practices may particularly have an impact on the decisions of students who have disabilities that affect their ability to move around campus, such as universities:
- making inaccurate statements about the accessibility to their facilities; or
  - omitting to mention restrictions on access to buildings where they have not been able to make reasonable adjustments to provide access for people with disabilities (such as wheelchair users).<sup>8</sup>
- 2.9 Where a university's advertising or marketing is directed at particular groups, such as international students, part-time students, or those learning at a distance, certain information is likely to be important for prospective students and so will be within the scope of material information under the CPRs. For example:
- information about English language proficiency requirements, together with visa and immigration requirements, is likely to be relevant to and affect the decisions of international students; and
  - information about the accessibility of learning support facilities such as library opening times, the course timetable (for example, the days on which lectures and seminars will be held) and length of the course is likely to be particularly relevant to and affect the decisions of part-time students.

## **What is a distance contract?**

- 2.10 In addition to the material information universities need to provide under the CPRs, universities have to comply with the requirements of the CCRs when a

---

<sup>8</sup> The Equality Act 2010 requires that 'reasonable adjustments' are made to provide access to people with disabilities.

contract between students and universities is entered into, such as when you accept an offer.

- 2.11 Distance contracts are contracts that are negotiated and entered into at a distance (for example through the UCAS system). The fact that there may have been some face-to-face contact between a university and you, for example at an open day or interview, does not automatically mean that the agreement will not be a distance contract. It is our view that the contract for admission, entered into when a prospective student accepts an offer, is likely to be a distance contract when it is done through UCAS or otherwise at a distance.

### **What are the information requirements under the CCRs?**

- 2.12 The CCRs require a university to give or make available to you certain pre-contract information in a clear and comprehensible manner before you enter into a contract. There may be pre-contract information (as defined in the CCRs) on the university's website or in other materials, or it may be provided to you directly. The necessary information that must be provided includes:

- the main characteristics of the service, such as information about the conditions of the offer and details about the course, for example its title and the award you will get on completion;
- the duration of the contract, which is likely to include the standard length of the course;
- the total cost of tuition fees and any other course-related costs;
- information about the university's complaint handling process for academic and non-academic complaints and where to locate the full policy. The university must also provide information about any other complaint or redress options that may be available to you with third parties such as the Office of the Independent Adjudicator for Higher Education (OIA) or the Scottish Public Services Ombudsman (SPSO) (see Section 4 for more details); and
- where there is a distance contract, information about your right to cancel the agreement within 14 days of the date of the contract. You should be provided with a copy of the model cancellation form, although you do not need to use that form in order to cancel. You should also be aware that you do not need to give any reason for cancellation.

## **What happens if changes are made to the pre-contract information?**

- 2.13 Before an offer is accepted, if the university has made any changes to the pre-contract information, it needs to have your express agreement to the change. It is important that the university's pre-contract information is correct, as once you accept an offer, a contract is formed. This information then becomes a term of the contract that should not ordinarily be changed. Note that the requirement for your express agreement to changes to pre-contract information does not prevent the university from giving you more detail or clarifying information that you have already been given. This is possible as long as it does not amount to the university making a change to the pre-contract information.
- 2.14 If a university anticipates that some things might change (such as a possible change to the campus where the course will be delivered) it should be made clear to you in the pre-contract information what might change, when and how. It would not satisfy the CCRs' requirements for a university to put information about possible changes in small print, and it would not be acceptable for the university to reserve the right to make any changes it wants. Any terms of the agreement that say the university can make changes to the pre-contract information will be subject to the test of fairness. A blanket provision that says the university can change important elements of the course would not be acceptable, and is likely to be unfair under unfair terms legislation (see Section 3).
- 2.15 As well as providing or making available pre-contract information before the agreement is entered into, the CCRs require a university to provide confirmation of the contract and the pre-contract information to you using a durable medium that you can refer to in the future. This must be done within a reasonable time after the contract is entered into (ie after an offer is accepted).

## **What is a durable medium?**

- 2.16 A durable medium is defined in the CCRs as paper or email, or any other medium that:
- allows information to be addressed personally to the recipient;
  - enables the recipient to store the information in a way accessible for future reference for a period that is long enough for the purposes of the information; and

- allows the unchanged reproduction of the information stored.<sup>9</sup>

## **What are the information requirements for the clearing and adjustment processes?**

2.17 The information requirements under the CPRs and CCRs apply equally to students going through a clearing or adjustment process (such as those operated by UCAS).

---

<sup>9</sup> See Regulation 5 of [the Consumer Contracts \(Information, Cancellation and Additional Charges\) Regulations 2013](#).

### 3. Terms and conditions

#### What are terms and conditions?

- 3.1 Terms and conditions, which can be set out in a number of documents and policies such as rules and regulations and contract documents, set out your rights and obligations to the university and the university's obligations to you.

#### What does fair, accessible and transparent mean?

- 3.2 A university's terms must be fair, accessible and transparent. A university should also draw your attention to any terms that may be particularly surprising or important, and whose significance may be missed. An example of such a term could be a provision that sets out how tuition fees may change during the course.
- 3.3 The university's terms and conditions should be brought to your attention before you accept an offer of a place – for example at the latest when you get your offer. You should be given a reasonable opportunity to read and understand the terms before you are asked to accept them.
- 3.4 Unlike in some other consumer contracts, in practice it is likely to be difficult for you to switch to another course or university if a change is made that you are not happy with, which underlines the importance of you being able to predict from the outset how the course will operate and how much it will cost.
- 3.5 Terms may not be fair, accessible and transparent if, for example, they are:
- only provided at the time you meet the requirements of a conditional offer or at the time you enrol;
  - only available on a university's intranet, which can only be accessed by existing students;
  - set out in a number of lengthy documents or across a number of locations (for example on the university's website); or
  - not written in plain language so you are unable to understand the meaning and how the terms could affect you.

- 3.6 Terms may also be unfair if they do not strike a fair balance between your rights and obligations and those of the university – for example, if they:
- allow a university to make sweeping changes to significant aspects of your course (such as content, structure or location) or to increase your fees during the course;
  - seek to limit or exclude the university's liability if it doesn't provide you with the course it agreed to or fails to provide it to a reasonable standard;
  - assign all intellectual property rights (IP) for any of your work to the university, regardless of the circumstances;
  - prevent you from progressing to the next academic year or graduating if you owe non-tuition fee debts to the university, in a blanket fashion and regardless of the circumstances.

### **How does fairness apply to changing course content and structure?**

- 3.7 Terms allowing changes to be made, for example to your course, will not be automatically unfair as there needs to be a reasonable amount of flexibility, for example to allow adjustments for recent theories and practice in an area. However, this has to be balanced against the overarching requirement that you should receive the service you expect.
- 3.8 A term that allows a university too much discretion to make sweeping changes to your course – such as the course content, location of study, method of assessment or the final qualification to be awarded – is likely to be considered unfair unless it describes the circumstances when and reasons why this might happen so that you know in advance when and how changes might be made. You can then decide if you wish to study at that university and on that course, or look for another university or course that offers you more certainty about what to expect. A term that claims to allow the university to deliver a different course, or to withdraw the course, is also likely to be considered unfair.

3.9 A term will not be made fair just because a university says that any changes it makes will be reasonable, as you will still be unclear about what changes may be made, and opinions on what is reasonable may vary. Such terms are less likely to be considered unfair if:

- they are actively drawn to your attention before you commit to the university – so that you can decide whether to study there, or not, in full knowledge of what might change;
- they are narrow in scope and effect;
- they set out valid reasons where changes might be necessary, and you are able to understand when and what changes might be made;
- they are written in plain and clear language;
- they set out how the university will deal with any changes that become necessary, for example by giving you notice of proposed changes and taking all reasonable steps to minimise disruption to you;
- the university tells you about any proposed changes in good time before they become effective (although just giving you notice will not address the underlying unfairness of a term); and
- you are able to terminate your obligations to the university where you are adversely affected by the change. For example, you may be allowed to switch to another course or to a different university if you wish to do so and the university offers to help you do this (although we acknowledge that this is likely to be difficult for you).

3.10 A term that gives a university the opportunity to withdraw or cancel a course before it commences, for any reason, is also likely to be considered unfair.

### **How does fairness apply to increasing fees during the course?**

3.11 Before you apply for a university place it is important that you know how much your total course fees will be, so that you can assess and compare your options and plan your finances.

3.12 A term that allows a university wide discretion to increase fees during a course is likely to be unfair. An example of this would be where a university reserves the right to increase fees at any time and by an unlimited amount.

3.13 A term that allows a university to increase fees during the course is less likely to be unfair if:

- clear and accurate information about potential fee increases is actively drawn to your attention up front alongside information about course fees generally, so that you know whether and how fees could change;
- it sets out the limited circumstances and valid reasons why fees might increase, for example in line with inflation to reflect increased costs of delivering the course;
- increases are linked to an objective index, such as the Retail Prices Index for inflationary prices. Similarly, or in addition, increases that are capped are less likely to be unfair;
- where the increases will only apply to a particular group of students or a particular course, this is clearly explained;
- the university informs you of any fee increases in good time ahead of the next academic year (although this alone will not make a term fair); or
- you are able to terminate your obligations to the university when you are adversely affected by the change, for example, if you want to switch to a different course or university as a result of the increase (although we acknowledge that this is likely to be difficult for you).

### **How does fairness apply to terms that seek to limit the university's liability to you?**

3.14 Terms that try to limit or exclude a university's liability to you (beyond what is possible under general law – see Annex A) may be challengeable for unfairness under unfair terms legislation. For example, terms may be unfair where a university seeks to exclude or limit its liability in circumstances where:

- it fails or is not able to provide the necessary educational service it has agreed to – for example the relevant course;
- it fails to provide the educational service to the required standard – for example it delivers a poor course. Courses should be provided with reasonable care and skill by the university; or
- it says that if it is unable to continue delivering a course, for whatever reason, it will limit its compensation to no more than the fees for the first year.



3.15 Under the proposed Consumer Rights Act (CRA), which will replace the UTCCRs and the provisions of certain other legislation that applies to consumer contracts, it will not be lawful to exclude liability or limit it to less than the contract price for not providing a service with reasonable care and skill or in respect of certain information about the trader or service. Other limitations of liability, such as for total or partial non-performance, will still be subject to the test of fairness under the unfair terms provisions of the CRA.

### **How does fairness apply to terms that assign all of your intellectual property rights to the university?**

3.16 In general, universities have no automatic right to the intellectual property (IP) generated by students, given that they are not employees. A term that allows a university to claim all IP generated by all students during their studies – for example, all written work, creations, inventions and discoveries, regardless of the circumstances of study or type of course – may be unfair.

3.17 There may be some courses or programmes where assignment of certain types of IP rights to the university is appropriate, such as some postgraduate research that is part of an ongoing research programme, and where there are sufficient safeguards to protect students' interests.

3.18 The safeguards that may make a term less likely to be unfair include:

- the term being restricted in its scope to what is necessary to protect the university's legitimate interests in the IP;
- making it clear to which students and in what circumstances the assignment will apply;
- where assignment of IP is appropriate, making sure that a student's involvement in the work is treated in an appropriate and fair way, for example by being acknowledged in the publication, or the IPR being subject to a revenue sharing scheme; and
- ensuring that how the university treats IP is made clear up front for the relevant programme of study.

3.19 You can find more advice for students about IP from the Intellectual Property Office using its IP Tutor tool.<sup>10</sup> This is an interactive e-learning tool developed to help students and lecturers learn more about intellectual property.

---

<sup>10</sup> See the [IP Tutor tool](#).

It provides four tailored learning pathways, each adapted to suit the needs of different areas of study:

- Creative.
- Science, technology, engineering, maths (STEM).
- Law, business and accounting.
- Humanities, including creative writing.

### **How does fairness apply to terms that prevent students from progressing if they owe non-academic debts?**

- 3.20 A term may be potentially unfair if it creates a blanket rule, regardless of the circumstances, that prevents you from progressing to the next academic year, graduating, or using facilities where you owe money to the university other than in relation to your tuition fees, for example if you owe money for accommodation or childcare.
- 3.21 This is especially the case where the term is used regardless of the circumstances – for example where the debt is disputed. Practices around the use of such terms may also constitute what is known as aggressive practices under the CPRs. The OFT published a report on this issue in 2014.<sup>11</sup>

### **What rights do I have under unfair terms legislation?**

- 3.22 You may be able to rely on unfair terms legislation in defence of a claim where a university tries to enforce an unfair term through court action, or in any legal proceedings you bring against a university.
- 3.23 Where a term is found by a court to be unfair, it will not be binding on you and cannot be enforced against you. For example, if an unfair term requires you to do something, you cannot be made to do it. A university will not be entitled to obtain a court order to enforce a demand for payment based on an unfair term. Similarly, if an unfair term seeks to stop you from doing something, such as seeking redress that should be available to you, it will not be upheld in court.

---

<sup>11</sup> See OFT report [Universities' Terms and Conditions](#) (OFT1522).

## 4. Complaint handling processes and practices

- 4.1 A university's complaint handling procedures and practices need to be easy to locate, accessible, clear and fair to students.

### **When and how should I be informed about a university's complaints handling policy?**

- 4.2 Universities must provide you with information, in a durable medium, about their complaint handling policy before you accept an offer of a place from them. This is a requirement under the CCRs.
- 4.3 In general, the complaints procedure should be easily located and accessible to you, for example on the university's website or intranet. If it isn't, then this could be a misleading omission under the CPRs.
- 4.4 The university should also provide you with clear and accurate information about its complaint handling procedures. This applies to its written information and anything you are told verbally by staff. Not doing so may be a breach of the CPRs. For example, it could amount to misleading omissions if:
- it is not made clear to you where responsibility for complaint handling lies where a course is offered in partnership with, or sponsored or awarded by, someone else;
  - for providers that are part of a collegiate system, it is not made clear where responsibility for complaint handling lies between the particular college and the collective university body, and at what stage a complaint can be escalated from the college;
  - you are not provided with details of any external complaint or redress scheme that you may be able to escalate complaints to – for example, the OIA or the SPSO;
  - the university does not clearly set out the remit of any external complaint or redress scheme – for example, in relation to the type of complaints it can consider; or
  - the university withholds information about, or does not make clear, how to use the complaints procedure – for example, where you raise concerns at an informal level but are not told that it is possible to make a complaint more formally if the matter is not satisfactorily resolved.

## How does fairness apply to complaint handling processes?

- 4.5 Failure to deal with complaints fairly and reasonably may amount to an unfair practice under the CPRs, may fail to meet the requirements of professional diligence, and could also be a potentially unfair term. For example, this could occur if a university:
- misleads you about your rights under the contract, or how you can exercise these rights – this could be a misleading action or misleading omission under the CPRs;
  - does not have a complaints process that sets out and/or provides:
    - clear and reasonable timescales in which you can expect to hear back about your complaint at each stage of the process, as applicable;
    - clear and reasonable timescales for you to respond to any requests from a university for further information; and
    - information for internal escalation if a complaint is not satisfactorily resolved in the first instance.
  - imposes unreasonable barriers that prevent, hinder or deter you from exercising your rights under the contract. For example, it may require you to attend a particular location that is some distance from your location to progress complaints. This may be particularly pertinent for distance learners or those studying at satellite campuses; or
  - fails to adequately respond to and address complaints.
- 4.6 Universities may also have other complaint handling obligations under HE-specific rules, such as the Quality Assurance Agency for Higher Education's (QAA) UK Quality Code for Higher Education.<sup>12</sup> They may also be members of third party redress or complaint schemes that have published guidelines on complaint handling – for example the OIA in England and Wales or the SPSO in Scotland. Failing to abide by these obligations and/or guidelines could also be an unfair commercial practice under the CPRs.

---

<sup>12</sup> See the [UK Quality Code for Higher Education](#).

## 5. What can I do if I have a concern?

- 5.1 If you think your university may not have met its obligations under consumer law you may want, in the first instance, to discuss this with:
- the university – by speaking to university staff, such as those who have a role in delivering the course or who have a student advisory role;
  - your local student union or NUS representative; or
  - Citizens Advice (England, Wales and Scotland) or Consumerline (Northern Ireland).<sup>13</sup>
- 5.2 The Citizens Advice and Consumerline consumer helplines and websites are staffed by trained consumer advice advisers. They will be able to advise you whether a university appears to have met their legal obligations to you or not. They can also give you advice about your particular issue and possible remedies.
- 5.3 The Citizens Advice consumer service can also help you report a problem to Trading Standards.

### **Who else can I report my concerns about possible non-compliance with consumer law to?**

- 5.4 You can report your concerns about possible breaches of consumer law to the CMA.<sup>14</sup> The CMA is unable to offer advice or intervene in individual disputes. However, the information received will be used to provide intelligence on potential problems. Where appropriate, it will also help the CMA determine whether any action by the CMA or another enforcer (such as Trading Standards) is necessary to address breaches of consumer law.
- 5.5 Alongside partnership working with co-enforcers of consumer law, the CMA may, where appropriate, work with other bodies with alternative, and sometimes non-legislative, powers for the purposes of ensuring consumer protection. Bodies such as the Advertising Standards Authority (ASA) may have other methods of gaining compliance and may be best placed to act based on the circumstances of each particular case. The ASA is the UK's independent self-regulator of advertising across all media. Its work includes acting on complaints and proactively checking the media to take

---

<sup>13</sup> If you live in England, Wales or Scotland, you can visit the [Citizens Advice website](#), or call the Citizens Advice consumer helpline on 03454 04 05 06. If you live in Northern Ireland, you can visit the [Consumerline website](#) or call Consumerline on 0300 123 6262.

<sup>14</sup> See the [Competition and Markets Authority](#) webpages.

action against misleading, harmful or offensive advertisements that contravene its Advertising Codes. Its Codes cover advertising and marketing communications, which are likely to include universities' course information/prospectuses on websites, leaflets and posters directed at students.

5.6 The CMA may also work with HE sector bodies in relation to compliance with consumer law – in particular the QAA, which is the independent body entrusted with monitoring, and advising on, standards and quality in UK HE. The QAA can investigate a concern that relates to at least one of the following:

- The standards and quality of HE provision at a university.
- The information that universities produce about their higher education programmes.
- The lack of fair, accessible and timely procedures for handling student complaints.

5.7 The QAA does not resolve individual complaints against universities and is unable to provide redress or compensation to any individual submitting a complaint to it. However, it can look at individual complaints for evidence of broader failings in the management of academic quality and standards. Where it considers that these indicate serious systemic or procedural problems, the QAA can investigate them under its Concerns procedure in England, Wales and Northern Ireland,<sup>15</sup> or under its Protocol for managing potential risks to quality and academic standards in Scotland.<sup>16</sup>

## **Action you may want to consider**

5.8 If your university is a member of any external complaint or redress scheme, such as the OIA in England and Wales, you may be able to refer a complaint to that scheme if it falls within the OIA's remit and you have exhausted the university's internal complaint procedures. The OIA is able to consider complaints from students about consumer issues. In Scotland you may be able to refer a complaint to SPSO, if it falls within its remit.

5.9 In some circumstances, you may have the right to take legal action, or the right to defend any action brought by a university, for example to recover debts allegedly owed. In particular, in relation to an unfair term, you may be

---

<sup>15</sup> See the QAA's [Concerns procedure](#) (England, Wales and Northern Ireland).

<sup>16</sup> See the QAA's [Protocol for managing potential risks to quality and academic standards in Scotland](#).

able to rely on unfair terms legislation. If a term is found to be unfair by a court, the term cannot be relied on by the university.

- 5.10 In some circumstances you may have the right to seek redress under the CPRs in respect of misleading actions and aggressive practices. This is in addition to any other rights to seek redress through any civil action you may wish to pursue for breach of contract.

## Annex A – Overview of consumer law

1. This section outlines the key pieces of consumer law which establish universities' obligations to students.

### **Consumer Protection from Unfair Trading Regulations 2008 (CPRs)**

2. The CPRs<sup>17</sup> prohibit traders from using unfair commercial practices towards consumers. The term 'commercial practice' is broad in scope and time, and includes anything done in connection with the promotion, sale or supply of goods or services.
3. The CPRs set out broad rules outlining when commercial practices are unfair. Generally speaking, the CPRs prohibit universities from engaging in unfair practices in their dealings with students and prohibit misleading actions (under Regulation 5 of the CPRs), misleading omissions (under Regulation 6 of the CPRs) and aggressive practices (under Regulation 7 of the CPRs) where they are likely to have an impact on students' decisions.
4. General guidance on the CPRs can be found on the CMA's webpages.<sup>18</sup>

### **Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (CCRs)**

5. The CCRs<sup>19</sup> came into force on 13 June 2014, replacing certain other laws relating to distance selling and doorstep selling, and introduced new provisions.
6. Among other things, the CCRs require that certain relevant pre-contract information must be provided before the consumer (in this case the student) becomes bound by a contract. They also provide consumers with cancellation rights in certain circumstances for contracts made at a distance or away from business premises (sometimes called doorstep contracts).
7. General guidance on the CCRs can be found on the Business Companion website.<sup>20</sup>

---

<sup>17</sup> See the [Consumer Protection from Unfair Trading Regulations 2008](#).

<sup>18</sup> See the [CMA's general guidance on the CPRs](#).

<sup>19</sup> See the [Consumer Contracts \(Information, Cancellation and Additional Charges\) Regulations 2013](#).

<sup>20</sup> See the [Business Companion general guidance on the CCRs](#).



## Unfair terms legislation

8. The current unfair terms legislation<sup>21</sup> applies to contract terms that set out the rights and obligations between a trader and consumers (students, in this case). As such, terms set out in a university's rules and regulations that apply to students are likely to be subject to unfair terms legislation.
9. The unfair terms legislation applies a test of fairness to all standard terms, other than terms that define the main subject matter or set the price. A term is unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the parties' rights and obligations arising under the contract, to the detriment of the consumer under Regulation 5(1) of the UTCCRs. The requirement of good faith embodies a general principle of fair and open dealing. If terms are found to be unfair, they are not enforceable against the consumer.
10. General guidance on unfair terms legislation can be found on the CMA's webpages.<sup>22</sup>

## Other relevant legislation

11. There are other consumer laws that universities also need to be aware of. These include the Provision of Services Regulations 2009 (PSRs)<sup>23</sup> and the Supply of Goods and Services Act 1982 (SGSA).<sup>24</sup>
12. The PSRs apply to organisations that provide a service for which they normally charge (including educational services that are provided in return for remuneration). They will therefore apply to universities that do not receive public funding, and may also apply to other traditional universities depending on their funding model. The regulations require that:
  - universities make certain information available to students (as service recipients) in good time before the conclusion of the contract; and
  - universities respond to student complaints as quickly as possible and make their best efforts to find a satisfactory solution to complaints.

---

<sup>21</sup> See the [Unfair Terms in Consumer Contracts Regulations 1999](#) (OFT143).

<sup>22</sup> See the [Unfair contract terms guidance](#) (OFT311).

<sup>23</sup> See the [Provision of Services Regulations 2009](#).

<sup>24</sup> See the [Supply of Goods and Services Act 1982](#).

13. The requirements of the PSRs in relation to information provision and complaint handling are similar to those under the CPRs and CCRs. General guidance on the PSRs has been provided by the Department for Business, Innovation and Skills (BIS).<sup>25</sup>
14. The SGSA contains implied terms that a service must be carried out with reasonable care and skill in England, Wales and Northern Ireland. In Scotland, the common law provides equivalent requirements. For business to consumer contracts, the provisions of the SGSA are anticipated to be replaced by the Consumer Rights Act, but the obligations to provide services with reasonable care and skill will remain the same. The provisions on service contracts in the Consumer Rights Act also apply to Scotland. The legislation regarding the supply of services and the common law in Scotland are, in our view, generally applicable to the provision of educational services, and so imply that the educational services need to be provided to this standard. General guidance on the SGSA can be found on the Business Companion website. In respect of Scotland, please refer to the relevant pages on the Business Companion website.<sup>26</sup>

## **Upcoming changes to consumer law**

15. The Consumer Rights Act (currently known as the Consumer Rights Bill as it goes through Parliament) is proposed to consolidate, simplify and update several pieces of consumer law, including the UTCCRs, the UTCA and the provisions that apply to consumers under the Supply of Goods and Services Act 1982 (SGSA). Further information about the Consumer Rights Bill can be found on the webpages for the Department for Business, Innovation and Skills.<sup>27</sup>

---

<sup>25</sup> See BIS' [Guidance for Business on the Provision of Services Regulations](#).

<sup>26</sup> See [the Business Companion website](#).

<sup>27</sup> See further information about the [Consumer Rights Bill](#).