GUIDANCE ON THE APPLICATION OF CONSUMER PROTECTION LAW FOR STUDENTS

## RECRUITMENT AND POST-ENROLMENT INFORMATION AND PROCEDURES

## **Introduction**

In March 2015, the Competition & Markets Authority (CMA) released guidance on what Universities should be doing to ensure compliance with consumer protection law regarding their relationships with their students.

Although the majority of the law regarding consumer protection is not new, the way the CMA considers it applies to Universities and in particular the specific requirements laid down by that guidance introduces a new approach to consumer protection for students. Further information for staff about the CMA guidance and its general application is available via Brightspace [here](https://brightspace.hud.ac.uk/d2l/home/11694).

In response to the guidance, the University has undertaken an analysis of the University’s level of compliance and has put a number of actions in place, particularly around marketing to enquirers and applicants and the 'terms and conditions' applicable to students (the ‘Student Contract’).

Set out below is a summary of what is (and is not) included in the Student Contract and how to apply the CMA guidance to recruitment materials, course information, student regulations, policies and procedures. It is crucial that this guidance is followed on a consistent basis by all Schools and Services.

Please note that the information and procedures set out in this guidance are **not** a replacement for the established regulations and procedures set out in the University’s Regulations for Awards and Quality Assurance Procedures for the approval and validation of courses, including the timetable for validation. Please refer to the separate [Validation Principles and Guidelines](https://www.hud.ac.uk/media/assets/document/registry/validationprocess/validation-principles-and-guidelines.docx) published by the Registry for this information.

Validated course and module specifications remain the definitive statement as to course structure and content. Those specifications in turn inform the content of recruitment materials and website content.

From a consumer protection law perspective, material changes made to advertised course and module specifications that affect (i) applicants who have received (or will receive) an offer for a place; and/or (ii) current enrolled students must be reflected in the Student Contract; this document also explains the process for ensuring that this is the case.

## **The Student Contract**

There are three stages that are relevant to the formation of the Student Contract:

1. Enquiry stage – a prospective student is researching the University with a view to making an application
2. Application and offer stage – a prospective student applies for, and is offered, a place on a University course
3. Enrolment and post-enrolment – a student enrols with the University and embarks on their course of study.

Enquirers and applicants can access a great deal of information about the University through a variety of media, including the prospectus and subject area brochures, the website, Open Days, Applicant Visit Days, UCAS fairs, etc. All of the information provided can inform the decision making process as to whether to make an application or accept an offer. **It is important that, from the enquiry stage onwards, all such information is compliant with consumer protection law and the CMA guidance (i.e. up-front, clear, accurate, comprehensive and unambiguous**).

From this wide range of information that enquirers and applicants have access to, it is the ‘material information’ that will be included in the Student Contract if an applicant accepts an offer of a place and then enrols at the University. Details of that contract must be sent to applicants who receive an offer.

The material information that forms the Student Contract is set out below:

* Students’ Handbook of Regulations
* Fitness to Practise Handbook (for relevant courses)
* Course and other relevant information **as published in the Coursefinder section of the University website** (note that this is **not** the detailed validated course/module specification)
* Fees and finance information as published on the University website for the relevant year of entry
* Policies and procedures:
  + Credit Control Policy
  + Data Protection Policy
  + Equal Opportunities Policy Statement
  + Research Ethics & Integrity Policy
  + Freedom of Speech and External Speakers Policy
  + Health & Safety Policies
  + Intellectual Property Policy
  + IT Security Policy
  + Prevent Policy
  + Student Social Media Policy
  + Policy & Procedure for the Safeguarding of Children and Vulnerable Adults
  + Whistleblowing Policy

All of this information is published on the University’s website and is available for prospective students to view when researching the University. The “Key Facts” that we are required to draw attention to are presented in a document published by Registry and made available via the Coursefinder pages (under ‘Important Information’).

All information that forms the Student Contract is captured by CLS in a PDF format using strict date stamped version control at the point at which it is published on the University’s website, including any subsequent versions.

Students (2015 entry onwards) and applicants who are made an offer are sent an email via ASIS using an approved form template, detailing the key terms of the Student Contract and containing links to the time stamped PDF versions of the contractual documents relevant to their specific course and year of entry via a website called **MyContract**.

Prior to enrolment students are reminded, via MyContract, of the terms of the Student Contract and any changes made since they received their offer (which are highlighted to them in MyContract) and must accept the contract before completing their enrolment at the University; it is then binding on both the student and the University.

The information contained in the MyContract site for each applicant/student (2015 entry onwards) is the definitive version of the Student Contract for that individual.

It is important to ensure that any additional information that is made available to students but does not form part of the Student Contract (e.g. course and module handbooks, specifications, etc.), whether in hard copy or electronic format, is clearly identified as being for information only and not forming part of the contract.  Registry will be working with Schools to ensure that this is the case from 2016 onwards.

## **Publishing of Information and Managing Change**

The information included in the Student Contract is ‘owned’ by different departments across the University, is published in a number of different places and follows different approval processes. Regardless of this, a consistent approach must be taken when publishing the information or revising published information in order to retain an accurate record of the Student Contract at any point in time and to ensure that any required approvals are obtained. This is important both for the student and for the University, both of whom need to be able to demonstrate clearly what the terms of the Student Contract were at all relevant times, particularly where a complaint or other issue is raised.

It is recognised that changes may be necessary following first publication of course and other relevant contractual information.  It is not intended that the CMA process will hinder Schools from making changes to courses to keep them up-to-date and relevant, to the benefit of our students. Within this context, please note that under consumer protection law, there are only a limited number of acceptable reasons for making a material change. These are as follows (emphasis made for the benefit of the reader):

*We review all optional modules each year and change them to reflect the expertise of our staff, current trends in research and as a result of student feedback. We will always ensure that you have a range of options to choose from and we will let students know in good time the options available for them to choose for the following year.*

*We will only change core modules for a course if it is* ***necessary*** *for us to do so, for example to maintain course accreditation. We will let you know about any such changes as soon as possible, usually before you begin the relevant academic year.*

*Sometimes we have to make changes to other aspects of a course or how it is delivered. We only make these changes if they are for* ***reasons outside of our control****, or* ***where they are for our students’ benefit****. Again, we will let you know about any such changes as soon as possible, usually before the relevant academic year.*

*Our regulations set out our procedure which we will follow when we need to make any changes to modules.*

Certain changes made to the published contractual information listed above that affect current applicants or current students (2015 entry onwards) **must** be updated in MyContract using the procedures outlined in this guidance in order that each student’s contractual record is correct at all times. Where direct communication or consent is required for a change (see below), a record of this should also be kept following the procedures set out below

**Except in very exceptional circumstances, which will be considered by the Deputy Vice-Chancellor (DVC) on a case by case basis, NO CHANGES can be made to any published contractual information issued to applicants during the period starting four weeks before the relevant enrolment period and ending when that enrolment period finishes.** This is because students are asked to accept the terms of the student contract as part of the pre-enrolment process, with the Student Contract taking effect when the student completes their enrolment; if any changes are required between these dates all affected applicants would be required to consent which is not desirable at such a crucial stage in the recruitment cycle.

Set out below is a summary of how the various pieces of information are approved and published and how changes must be made in order that we remain compliant with the CMA guidance.

## Coursefinder

Publication of information

All information published in the Coursefinder section of the website must be approved by the School before publication. Each School has a CMA ‘approver’ nominated by the Dean. It is their responsibility to obtain and check course details with relevant School staff and collate all amendments to ensure all necessary information is complete and that all statements are correct and, where appropriate, can be evidenced before the information is published. This process must be completed before Coursefinder is locked in respect of the relevant year of entry (see below). Marketing has developed standard form IPP guidelines for marketing staff, which take into account the information that is required to be published under the CMA guidance.

Course-specific information in Coursefinder must be based on validated course/module specifications. **No courses will be published that remain subject to validation or which have unfulfilled conditions attached**.

Course information begins to be populated from October two years before the relevant intake. **For all UG and PG courses being advertised for September 2017 onwards, the deadline for publication of Coursefinder information is January of the preceding year** (e.g. January 2016 deadline for 2017 entry). Once this deadline has passed, Coursefinder is locked and no further changes may be made to the information without following the processes set out below.

It is extremely important that all published information is checked carefully **before it is first published** so that only changes that are absolutely necessary and could not have been foreseen previously are made once Coursefinder has been locked.

Changes to Coursefinder

The procedures below must be followed where changes need to be made to the information published in Coursefinder after it has been locked. Unless these are presentational or minor changes (see below), DVC approval is required before a material change can be made, following the process below. If the proposed change is one that will only affect future recruitment cycles (i.e. where no course information has been published) then no approval is required under this process – the usual validation procedures and timescales will apply.

Except for presentational changes (see below), all post-publication changes to Coursefinder will be logged centrally by the Registry and SRO for future reference.

A flowchart of the procedures set out below is appended at Appendix 2 for reference.

**Non-Material changes**

There are some changes that might be required to be made to the content of Coursefinder, which are considered to be non-material, in that they do not have a material effect on (i) applicants and any decision that they might make about their application; or (ii) enrolled students in respect of their course of study. Non-material changes **do not** need to be notified directly to applicants/students.

Non-material changes fall into two categories: (i) presentational changes; and (ii) minor changes.

(i) **Presentational Changes**

These are limited to:

* changes in coding, e.g. fixing broken links
* changes to the layout – spacing, headings style, etc., where this is considered necessary to avoid confusion;
* changes to School contact information;
* changes to wording where it does not affect the information provided or the meaning of that information, e.g. improving grammar/sentence structure, but only where this is considered absolutely necessary (e.g. the existing wording is confusing or potentially misleading);

If a presentational change is required to be made to the content of Coursefinder (as displayed on the website) then the School Marketing Coordinator/Practitioner should notify the Head of Marketing, who will unlock Coursefinder so that the Marketing Coordinator/Practitioner can make the change.

(ii) **Minor Changes**

These are limited to:

* clarification of entry requirements - note that the requirements themselves will not be changed once published except in very exceptional circumstances (e.g. external accrediting body requirements);
* addition of accreditation (unless this might potentially have a negative impact - for example requiring a DBS check where this was not previously required)\*;
* addition, removal or change to option modules\*; or
* addition of a potential benefit, such as a new scholarship being offered

\*Evidence of confirmation of SAVP approval required

If a minor change is required to be made to published information:

1. The School CMA Contact (nominated by the Dean) should complete the online CMA change request form available at [CMA Requests](https://unishare.hud.ac.uk/uniwide/cma/SitePages/Home.aspx), together with any required attachments, to the Assistant Registrar (Quality) and the Head of SRO
2. The Assistant Registrar and the Student Recruitment Manager (as appropriate) will unlock Coursefinder so that the Marketing Co-ordinator/Marketing Practitioner can make the change
3. Once the change has been made, Coursefinder will be locked again
4. The Assistant Registrar (Quality) or the Student Recruitment Manager will notify CLS of the change so that MyContract can be updated

**Material Changes**

Any change to the **information published in Coursefinder** in respect of a particular year of entry that is not a minor change is deemed to be a material change. The main examples of possible material changes are listed below, although this is **not an exhaustive list**:

* Entry requirements (which can only be changed by the Course Publication Team in exceptional circumstances (e.g. external accrediting body requirements))
* Removal or addition of core modules
* Change in existing core module
* Change to course structure, including the removal or addition of core modules
* Change in information about facilities available to students (including course-specific facilities, such as labs/studios/ instruments and equipment)
* Change in accreditation status where relevant (e.g. loss of accreditation or where a change to an existing accreditation or gaining an additional accreditation might potentially have a negative impact - for example requiring a DBS check where this was not previously required)
* Addition or removal of optional/compulsory placement
* Changes to module content which mean that the module description in Course Finder is no longer accurate

If a material change is required to be made to published information once offers have been made to applicants for that course, then once approved under these procedures, **those changes will need to be communicated, via ASIS, to all applicants affected, with an explanation of why the change is being made** (see below for the process). It will be at the DVC’s discretion as to whether that change also needs to be pointed out to applicants who subsequently apply for the course.

Changes to courses after enrolment

If a material change is required to be made to the Coursefinder information **as it was displayed** when a student enrolled on their course, **that proposed change will need to be communicated by the School to all affected students and, except in limited circumstances, written consent to the change obtained from those students by the School before it can be made** (see below for the process).

Given the potential impact on staff time, applicant conversion and the student experience of a material change being required to be made post-publication, **approval must be given by the relevant SAVP and by the DVC** before the change can be made.

As stated above, these procedures **are in addition to** and are **not a substitution for** the established regulations and procedures set out in the University’s Regulations for Awards and Quality Assurance Procedures for Taught Courses for the approval and validation of courses and any changes to those courses (including requirements for student consultation).

The procedure to be followed to manage material changes to Coursefinder information is set out below:

1. [the School’s nominated CMA contact](https://unishare.hud.ac.uk/uniwide/crsinfo/_layouts/15/WopiFrame.aspx?sourcedoc=/uniwide/crsinfo/Shared%20Documents/School%20Contacts%20for%20Course%20updates/School%20Contacts%20regarding%20Course%20information.xlsx&action=default) (nominated by the Dean) is notified by the person in the School who is requesting a change
2. the CMA contact works with the course team to establish:
   1. the details of the proposed change
   2. when it is required to be made
   3. the impact on applicants (if any)
   4. the impact on enrolled students (if any); and
   5. why the change is needed.

The Legal Office can be consulted if necessary.

1. If current students would be affected by the proposed change, **all affected students** must be contacted by the School and, except in limited circumstances (which will be advised on a case by case basis), **written consent** obtained from them.
2. the details set out at step 2, together with confirmation of student consent (where applicable) is submitted to and approved by SAVP - it is preferable, to avoid duplication, that where possible, this forms part of the submission for validation
3. the School CMA contact (nominated by the Dean) should complete the form set out at Appendix 1 and send it by email, together with any required attachments, to the Assistant Registrar and the Student Recruitment Manager
4. The Assistant Registrar and the Student Recruitment Manager will ensure that all required information has been provided and will contact the School if further information is required.
5. The Assistant Registrar and the Student Recruitment Manager will seek approval from the DVC. The DVC can give or withhold approval at their discretion. For example, it may be the case that approval is given for the change to apply to future years of entry but not current students.
6. Where the approved change affects **current applicants**, the Assistant Registrar will unlock the edit function of the Coursefinder pages, allowing the change to be made by the School’s marketing coordinator/practitioner and will lock the pages immediately afterwards (changes to entry requirements will be made by SRO).
7. Where the DVC considers that a change is so substantial that applicants who subsequently receive an offer should also be made aware of the change, a summary should be prepared to be included in the Student Contract communication sent to applicants who receive an offer of a place on that course. This will be dealt with on a case by case basis as this should be extremely rare.
8. Where the change affects current students, the Assistant Registrar (Quality)will make the amendments to the relevant ‘archived’ course records and these will be updated in MyContract.
9. The Assistant Registrar (Quality)/Student Recruitment Manager will notify the change:
   1. to the School
   2. to CLS, to enable MyContract to be updated
   3. where the change affects applicants who have received an offer, to Student Recruitment Manager and the Head of Marketing to enable an appropriate communication, using an agreed form template and explanatory text (to be approved by the Head of Marketing), to be sent to affected applicants; and
   4. in the rare circumstance where the DVC requires that future applicants who receive an offer are also notified of the change, to Student Recruitment Manager to enable the standard form post-offer communication for that course to be amended.

## Student Consent

The University’s Regulations for Awards and Quality Assurance Procedures for Taught Courses and the Consumer Protection Law guidance released by CMA are both clear that it is best practice, and university policy, that wherever possible consent will be sought from all affected students to any changes on their course.

However, it is recognised that it may not always be possible to obtain 100% positive confirmation from all students. In such cases, the Consumer Protection Risk Assessment, attached to this document, can be used to assess the risks attached to making the proposed changes to a course without sufficient consent. The completed risk assessment should be submitted with the course change documentation to SAVP who will consider the risks indicated and determine, in their absolute discretion, whether to allow a proposed change to a course.

## Fees and Finance

Fees and finance information (Home/EU and International) for the September intake is to be approved by SMT, published and captured for MyContract by Easter of the previous year. If such information might be subject to changes imposed by government, etc., this must be made clear and once any updates are known, these must be communicated in a timely way, following the procedures at 1.1 above where possible.

## Student Regulations

The Student Handbook of Regulations for each September intake must be finalised at May UTLC for approval by Senate in June of the same year. The Handbook is published each year on 1 July in respect of the September intake. A summary of changes to the previous version will be set out at the front of the Handbook and in MyContract.

## Policies and Procedures

Publication of information

All other policies and procedures that form part of the Student Contract are approved in accordance with their respective review and revision timetables. Each of the policies is listed below with reference to the ‘owner’ of the policy and the appropriate University committee that is authorised to approve any changes to those policies.

|  |  |  |
| --- | --- | --- |
| **Policy** | **Owner** | **Committee** |
| Credit Control Policy | Financial Services | SMT |
| Data Protection Policy | University Secretary’s Office | SMT |
| Equal Opportunities Statement | Human Resources | SMT/UTLC |
| Research Ethics & Integrity Policy | Research & Enterprise | URC |
| Freedom of Speech and External Speakers Policy | University Secretary’s Office | Council |
| Health & Safety Policies | University Secretary’s Office | SMT |
| Intellectual Property Policy | Research & Enterprise | Senate |
| IT Security Policy | CLS | SMT |
| Prevent Policy | University Secretary’s Office | Council |
| Student Social Media Policy | Registry | UTLC |
| Policy & Procedure for the Safeguarding of Children and Vulnerable Adults | University Secretary’s Office | SMT |
| Whistleblowing Policy | University Secretary’s Office | Council |

Changes to Policies and Procedures

When a change is made a policy or procedure that forms part of the Student Contract and is approved by the appropriate committee, as detailed above, the following procedure must be followed:

1. when the final draft of the revised policy is submitted to the appropriate committee for approval, a paper should be included with the submission which provides a draft summary of the changes made and the reasons for such change having been made for inclusion on the MyContract website.
2. once approved, a copy of the new policy and the summary wording must promptly be sent to the University Solicitor at the same time that it is published on the University website\*
3. the University Solicitor will notify CLS, confirming that appropriate approval has been obtained
4. CLS will update MyContract
5. Students will be notified of the change through the usual communication channels (e.g. via the Student Portal or email). Applicants will be put on notice by an alert appearing in MyContract; it is not intended that applicants will be contacted directly about changes in policies and procedures, except in exceptional circumstances.

**\*It is important to ensure that when a revised policy is published on the website that the same URL is used as the previous version in order that dead links are not created in other live documents (e.g. the Key Facts information). The Web Team can help with this if required.**

**APPENDIX 2 – COURSEFINDER CHANGE FLOWCHART**

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**CMA Risk Assessment Form**

**This form should only be completed in instances where:**

* **there is a proposed material change impacting existing students**
* **the course team has, despite reasonable efforts, been unable to obtain 100% positive affirmation from all affected students.**

**This form should be submitted with the validation documentation for consideration by SAVP/UVP. Once the change is approved, the form should be appended to Coursefinder Unlock Request documentation, together with all supporting evidence.**

**Please complete all sections in full.**

|  |  |
| --- | --- |
| **Course level/mode:**  (select from drop down list) | Choose an item. |
| **Year of Entry (eg 18/19):** |  |
| **Course Title & Award:** |  |
| **IPP Code:** |  |

**Rationale for Change:**

Provide a brief summary of the proposed changes including:

* A summary of the differences in content of the proposed changes compared to existing provision;
* When changes are to take effect from and what cohorts are impacted.
* Why it is necessary to implement the changes for current students.
* Any benefits of the changes
* Any perceived difficulty the course team may face in receiving 100% consent as well as the steps taken to mitigate these.

Please provide a summary response to all of the following points:

1. **the level of detriment students are likely to suffer as a consequence;**
2. **the extent to which the changes are due to legitimate reasons such as clear pedagogical benefit or regulatory requirement or to respond to a change in the law;**
3. **whether the changes are due to reasons outside the University’s control;**
4. **the risk exposure in terms of the number of students affected (i.e. not all students would suffer the same detriment (if any));**
5. **the likelihood of students objecting to the proposed changes;**
6. **the risks associated with reputational damage in the event objections are raised;**
7. **the amount of notice students can be provided with;**
8. **the ability to allow students to object to changes and put alternative solutions in place.**

**Appendix 1 - Evidence in support of change**

Provide a summary of the following areas as well as any documentary evidence:

* Summary of steps taken to Communicate with students (including following up instances of no responses or negative responses)
* A summary of evidence in support of the changes (student panel/course committee feedback from students; External Examiner support, industry benefits or practice etc.);
* Outline the number of students impacted on a course by course basis;
* Statistical Summary of responses received
* A copy of any correspondence text sent to students.
* Any additional information which may support the request.