 **Version Control**

**AU-PASC-21-4160-A**

**STUDENT CONSULTATION**

**2021/22**

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## SCOPE OF THE PROCEDURES

## Purpose of the Procedures

In March 2015 the Competition and Markets Authority (CMA) issued compliance advice to UK Higher Education providers (HEIs) outlining their responsibilities under consumer protection law.[[1]](#footnote-1)

CMA confirmed that consumer protection law notably the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) and the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (CCRs) applies to the relationship between the HEI and current and prospective students. It set out the minimum standards required in a number of areas, including information provision, complaints handling and the availability and fairness of terms and conditions. Consumer law compliance is a continuing registration requirement for the University and sits alongside existing regulatory policy from bodies such as the Quality Assurance Agency (QAA) and The Office for Students (OfS).

These procedures focus on the provision of information and the requirement to ‘’…ensure that prospective applicants and applicants are given up front, clear, timely, accurate and comprehensive information.’’

This applies before prospective applicants make a decision about which courses and providers to apply to and highlights the need for programme information to be clear and unambiguous in all promotional activities. Once an offer is accepted by a student the HEI and prospective student enter into a legally binding contract. Consumer protection law requires information provided at the pre-contract stage (i.e. the information used to inform a decision to apply to a particular HEI or programme) to remain unchanged. Compliance requires that **where any pre-contract information changes from that already provided you must obtain the student’s express agreement to the change. Failure to do so results in a breach of contract with the student.**

The procedures overarching principle therefore is to ensure continued compliance with the OfS requirement for registration, whilst balancing the need for a responsive and research-led curriculum. The procedures should also be considered in conjunction with the process document for Modifications of Programmes[[2]](#footnote-2).

## What is covered by the procedures

The following areas of activity are covered by this policy:

* Definition of Material Information and what constitutes ‘material’ change
* Categories of Risk
* Consultation Methods

## Who is covered by the procedures

The following must be aware of and/or comply with these procedures:

* College Senior Management Teams
* College Learning and Teaching Committees or equivalent;
* Programme Directors;
* College Quality Managers or equivalent;
* Programme Approval Steering Committee (PASC) members;
* Collaborative Provision Strategy Group (CPSG) members;
* CMA Steering Group;
* Other internal/external stakeholders e.g. Students, Employers, Professional and Statutory Bodies (PRSB)

Failure to follow the procedures set out within this document could lead to loss of OfS registration, lack of compliance with the QAA Quality Code, risk of litigation with financial penalties, risk to reputation and risk of student complaints and associated impact on student satisfaction.

## PROCEDURES

Following the publication of the CMA guidance, Aston agreed a set of principles to best manage the balance between compliance with consumer protection law, whilst appreciating the need for programme teams to offer a continually evolving and responsive curriculum. A risk management approach was taken, balancing a need to mitigate risk to the University (both financial and reputational risk) and allowing a degree of flexibility to maintain the quality of the student experience.

The CMA Steering Group agreed a set of principles to be followed by all taught programmes. These included:

* identifying categories for change: Material changes (a change that alters the nature of the programme) as defined in the CPRs;
* bringing forward the deadline for material changes to be approved so that it falls before the beginning of the recruitment cycle, preventing material changes to programmes being made during the pre-contract stage, ensuring clarity of information to prospective students;
* a process was developed to enable programme teams to consult current students about material changes to their programme. The process was developed to ensure equity of information to all affected students, to allow all students an equal voice in the process and to provide a clear audit trail of the outcome.

Since the publication of the original CMA guidance, the University has revisited its current ‘blanket’ approach to consulting with students (whereby all students are sent a summary of the proposed change through BlackBoard Enterprise Surveys, asked to either accept or reject the proposal, with non-response as acceptance and a minimum of 60% agreement to the proposal is required).

These procedures set out a revised risk management approach including additional consultation methods that can be adopted. It is still the expectation that programme teams engage with students throughout the development of the proposal for change; student consultation should be seen as the end-point of on-going dialogue with students, providing a consistent, formal and auditable record of the outcome.

## Material Change

#### What is Material Information?

“Material Information” is defined in the Consumer Protection from Unfair Trading Regulations 2008 as “…the information that the average consumer needs, according to the context, to make an informed transactional decision.”

The Competition and Markets Authority (CMA) stated exactly what “Material Information” means for the HE sector in the guidance published in March 2015. The Office for Students (OfS) has endorsed the requirement for universities to comply with consumer law and the CMA guidance as a continuous registration requirement with the OfS.

Material changes include:

* change of Programme Title;
* change to the award to be received on completion, this can include interim awards;
* change of the location of delivery;
* change to the awarding body or institution;
* change to the methods/Mode of delivery;
* change to the length of the programme;
* change to PSRB[[3]](#footnote-3) details;
* change of Programme Learning Outcomes;
* addition of Core modules;
* deletion of Core modules;
* substitution of Core for Core module;
* substitution of Core for Option module;
* tuition fees if they alter beyond any provisos included in offer letters of the Terms and Conditions of Enrolment[[4]](#footnote-4) and any other of the costs defined as being material to the programme that the student may have to pay;
* change to the general level of experience or status of the staff involved in delivering different elements of the programme[[5]](#footnote-5);
* learning hours which impacts on the expected workload of the student.

#### Material Changes and Professional Bodies

Since 2016/17, the Terms and Conditions of enrolment have included a variation clause that allows changes to be made to the material information in Programme Specifications, in some very limited circumstances without consulting students. Those circumstances will be where a professional body has stipulated that the specification must be changed to preserve the accreditation of the programme. There is still an expectation that such changes will be communicated to students, but a formal consultation will not be required, Schools should instead forward a copy of the professional body decision to the Education Team, Quality Team with the amended Programme Specification.

## Categories of Risk

#### High Risk

High Risk modifications are considered on a case by case basis. **Approval from the PVC Education must be obtained prior to any formal or informal discussion with students.**

Examples of high risk material changes that will require student consultation include:

* change to Award Type;
* change to Programme title where this impacts on current students;
* change to programme length including change to status of placement year e.g. from option to core;
* change to programme location e.g. a move to or from the Aston University Campus (not a change in room within the campus);
* a change to mode of delivery e.g. on-line to face-to-face or vice versa

It is anticipated that for the majority of high risk proposals the risk of making the change will outweigh the benefit of doing so. Proposed changes will be delayed to ensure current students and applicants are not affected.

It is acknowledged that in a small number of occasions this may not be the case. In this instance, the programme team must present a detailed rationale for the proposed change which clearly identifies the risk of **not** applying the proposal to current students and applicants.

The Chair(s) of the Programme Approval Steering Committee (PASC) who will discuss the proposal with the CMA Steering Group in the first instance and make a recommendation as to if and how to proceed to PVC Education for a final decision. The decision will include details as to how the consultation is to be conducted, the management of non-responders and the % of positive responses required. The decision of PVC Education is final.

#### Medium Risk

Medium Risk proposals can proceed to the consultation stage.

Examples of medium risk material changes that will require student consultation include:

* change of status of module from option to core;
* removal of core module;

change of credit value of core module;

* permanent removal of optional modules equating to 25% or more of credit in the stage;
* change to programme learning outcomes.

A minimum response rate of 60% of the eligible voting cohort is required

Non-responders are considered to have ***accepted*** the proposal

≥ 60% of eligible voting cohort to agree before proposal can be implemented

If students reject the change the change cannot be implemented. Where this happens, proposers should discuss with students to find a compromise or keep things as they are

#### Low Risk

Low risk material change does not require student consultation, instead students are to be **informed** in advance of the change being made.

Examples of low risk material changes include:

* Change of status of module from core to optional[[6]](#footnote-6)

## Consultation Methods

Programme Teams are required to involve students during the development of the proposals for change. This may be through formal mechanisms such as SSC or specific meetings arranged with students or informal methods such as in-lecture discussions or BlackBoard discussion forum.

The final consultation **must** provide an auditable trail of responses that can be presented to QAA, OfS or OIA[[7]](#footnote-7) if required.

The expectation is that proposed changes are agreed in time to prevent the need for revised information to be sent to offer holders however it is recognised that on occasion this may not be possible. If this is the case a decision on how to proceed must be made by the CMA Steering group in conjunction with PASC.

#### Rejection by students of proposed changes

In the event that students reject the modifications proposed, Programme Directors should be aware that the changes **cannot** be implemented. Programme Directors should seek to discuss the proposal further with students to see if a compromise can be reached; if this is not possible the programme must remain as initially approved.

#### High Risk

To be confirmed to PVC Education.

#### Medium Risk

The following methods[[8]](#footnote-8) can be used for Medium Risk material changes:

* BlackBoard Survey (see Appendix 5 for guidance on this method);
* In-lecture ‘Live’ voting using anonymous voting system

#### Low Risk

Although there is no requirement to ‘consult’ students with low risk material change, there is a requirement for evidence of communication from the relevant Programme Director or Module Lead to inform students of change.

## Timescales

Timescales for consultations with current students will be at the discretion of Programme Directors. Consultations, however, must be undertaken in a timely manner to ensure that modifications to a programme are in line with College and University deadlines for consideration/approval of the changes. Programme Directors should normally allow at least 2 weeks for students to provide feedback on the proposed changes.

## Appendix 1: Roles and Responsibilities

#### Roles

##### Programme Approval Steering Committee (PASC)

On behalf of the Learning and Teaching Committee (LTC), PASC considers and makes recommendations to LTC on all matters concerning the quality assurance and enhancement of programme approval.

PASC is responsible for:

* ensuring programmes are aligned with the Aston Strategy, Learning and Teaching Strategy, and Digital Aston project;
* taking a balanced approach to risk management to assure responsible development and, where possible, to mitigate against risk to reputation or academic standards, whilst supporting innovation and progressive design;
* adopting a holistic approach to curriculum developments to ensure quality and equity of student experience;
* setting programme-specific design requirements including those that relate to collaborative provision;
* the approval and monitoring of proposals for major curricular revisions to existing programmes, including resource issues where they impinge on the quality of the programmes;
* confirming and ratifying the timeline for the completion of the design process, referring any apparent delayed progress to School management;
* recording all programmes approved by Programme Specific Approval Panels (PSAPs);
* maintaining a record of programmes approved for withdrawal or suspension.

##### Collaborative Provision Strategy Group (CPSG)

CPSG focuses on collaborations that lead or contribute to academic criteria or a qualification. Separate governance arrangements exist for research or commercial collaboration.

CPSG is responsible, with PASC, for approval of complex proposals, especially proposals which involve new types of activity and new methods of delivery and which indicate a high level of risk and commitment of resource. The CPSG role is to assess the strategic merits of the proposal; compliance with the University Guidelines for Collaborative Activity; the assessment of risk; the consideration of any ethical issues and to determine the level of scrutiny required.

##### College LTC

The College LTC, as defined within the University Ordinances, “…monitors and maintains appropriate academic standards, endeavouring to enhance the quality of the School’s taught programmes and the student learning experience, including its collaborative provision, as specified in the University’s quality framework”. This includes the oversight of programme and module approval, modification and withdrawal.

##### CMA Steering Group

The CMA Steering Group has oversight of the University’s compliance with consumer law and for advising the University’s Executive and key committees on necessary actions. The group reports to the University Learning and Teaching Committee.

##### Programme Delivery Team

The Programme Director, and all teaching staff involved in the delivery of the programme.

##### Programme Design Team

The Programme Design Team includes the Programme Director and all staff contributing to the design of the programme. This would normally include all staff involved in the delivery of the programme.

## Appendix 2: Definitions

* **Office for Students (OfS)**: Independent regulator of Higher Education in England
* **Competition Markets Authority**: A “…unified competition and consumer authority which took over many of the functions formerly performed by the Competition Commission and the OFT. The CMA works to promote competition (both within and outside the UK) for the benefit of consumers.” (defined by the CMA in “[UK Higher Education Providers – advice on consumer protection law](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/428549/HE_providers_-_advice_on_consumer_protection_law.pdf)”)
* **Collaborative**: Collaborative provision encompasses all learning opportunities which lead or contribute to the award of academic credit or a qualification that are delivered, assessed or supported through an arrangement with one or more organisations other than the degree-awarding body.
* **Material Information:** these are changes to information which impacts on the student experience, in particular where the delivered experience is different to the expectations based on publicised information.
* **Programme Specification**: Significant element of the proposal documentation and is particularly important in relation to the requirements of consumer law as advised by the Competitions and Markets Authority (CMA) because it contains much of the ‘material information’ that students use to choose their degrees. Consequently, the CMA will regard the specification as information that underpins a potential students’ ‘purchasing decision’ and the expectation is that it is always an accurate description of the framework.
* **Module Specifications**: Significant element of the proposal documentation and can either be new modules or existing ones which have been modified/adapted for the new programme. Modules should be written to show how they support the students’ achievement of the intended Learning Outcomes at the programme level.
* **College LTC**: read ‘College LTC’ as College LTC or any other body to whom LTC has delegated responsibility of considering Programme Approval documentation to.
* **Quality Manager:** this could be the Quality Officer, Programme Manager etc. who has involvement with the Programme Approval process within the College.

## Appendix 3: Related Regulations, Statutes and Related Policies

* UK Quality Code: [Framework for Higher Education Qualifications](https://www.qaa.ac.uk/docs/qaa/quality-code/qualifications-frameworks.pdf?sfvrsn=170af781_16)
* [UK Quality Code for Higher Education](http://www.qaa.ac.uk/quality-code);
* [Forward 2020: A Strategy for Aston University](https://www2.aston.ac.uk/migrated-assets/applicationpdf/news/116884-Aston_2020_MINI_strategy.pdf)
* University [Access and Participation Plan](https://www2.aston.ac.uk/about/documents/access-and-participation-plan-2018.pdf)
* University [Student Protection Plan](https://www2.aston.ac.uk/about/documents/Student%20Protection%20Plan%20August%202018.pdf)
* [Legislation.gov.uk](http://www.legislation.gov.uk/) for statutory requirements, such as those relating to special educational needs, disability, equal opportunities and diversity, health and safety
* [Regulations](https://www2.aston.ac.uk/clipp/quality/a-z/general-regulations) of the University
* [Office for students: CMA](https://www.officeforstudents.org.uk/advice-and-guidance/student-wellbeing-and-protection/value-for-money-what-should-providers-do/consumer-protection/)
* [Higher Education: consumer law advice for providers](https://www.gov.uk/government/publications/higher-education-consumer-law-advice-for-providers)
* [Collaborative Guidelines](https://www2.aston.ac.uk/clipp/quality/a-z/collaborativeprovision)
* [Modification of Programmes process document](https://www2.aston.ac.uk/clipp/quality/a-z/prog-approval)

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## Appendix 4: Quick Overview of Consultation Process:

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|  | **Example of Material Change** | **Required outcome to accept change** |
| **High Risk** | Change to Award type | High Risk modifications are considered on a case by case basis.  It is anticipated that for the majority of high risk proposals the risk of making the change will outweigh the benefit of doing so. Proposed changes will be delayed to ensure current students and applicants are not affected.  It is acknowledged that in a small number of occasions this may not be the case. In this instance, the programme team must present a detailed rationale for the proposed change which clearly identifies the risk of **not** applying the proposal to current students and applicants.  The Chair(s) of PASC who will discuss the proposal with the CMA Steering Group in the first instance and make a recommendation as to if and how to proceed to PVC Education for a final decision. The decision will include details as to how the consultation is to be conducted, the management of non-responders and the % of positive responses required. The decision of PVC Education is final.  **Approval from PVC Education must be obtained prior to any formal or informal discussion with students.** |
| Change to Programme title where this impacts on current students |
| Change to programme length including change to status of placement year e.g. from option to core |
| Change to programme location e.g. a move to or from the Aston University Campus (not a change in room within the campus) |
| A change to mode of delivery e.g. on-line to face-to-face or vice versa (please note this does not apply to changes being made in response to the current COVID-19 pandemic) |
| **Medium Risk** | Change of status of module from option to core | A minimum response rate of 60% of the eligible voting cohort is required  Non-responders are considered to have ***accepted*** the proposal  ≥ 60% of eligible voting cohort to agree before proposal can be implemented |
| Removal of core module |
| Change of credit value of core module |
| Permanent removal of optional modules equating to 25% or more of credit in the stage |
| Change to programme learning outcomes |
| **Low Risk** | Change of status of module from core to optional | Students are to be **informed** of this in advance of the change being made. If the module is **not** to be offered as an option module then consultation must be completed – see above |

## Appendix 5: Blackboard Consultation Method Guidance

The College will notify, via BlackBoard, the students who are enrolled on the programme/module to be affected by the proposed amendment. This notification will include the rationale for the amendment and the consequences of the amendment being approved or rejected for that cohort of students. Students must be given at least five working days to make a response to the consultation.

The consultation should be set up by submitting a completed and College endorsed Programme Specification Update Form to the Education Team for Technology Enhanced Learning (TEL). The document should be sent to [telsupport@aston.ac.uk](mailto:telsupport@aston.ac.uk) using the following format for the email header:

Prog Spec change: *Name of Programme*

An Education Team TEL Officer will set up the consultation survey and return the results after it has closed. The Officer will require a minimum of 2 weeks-notice to set up the survey and this should be factored into the overall timescale for the major modification. As part of the notification, a start and end date for the survey needs to be identified. In addition, a core module from each of the cohorts who will be affected by the proposed changes must be identified. For example, changes to the final year of a programme will need to be communicated to those on placement, those in the second year and those in the first year. The name and code for a core module for each (affected) level should be inserted into the box provided on the Programme Specification Update Form.

The students will be asked to indicate acceptance or rejection of the amendment via the BlackBoard survey tool.

Students will be notified of the outcomes of the consultation via BlackBoard no later than five working days after the deadline for responses.

1. [Higher Education: consumer law advice for providers](https://www.gov.uk/government/publications/higher-education-consumer-law-advice-for-providers) [↑](#footnote-ref-1)
2. Available from the [Programme Approval, Update and Withdrawal](https://www2.aston.ac.uk/clipp/quality/a-z/prog-approval) web page [↑](#footnote-ref-2)
3. See Appendix 2 ‘Definitions’. [↑](#footnote-ref-3)
4. This refers to a situation where the University has said tuition fees will rise in line with inflation, but wishes to make a change that is different to the rate of inflation. [↑](#footnote-ref-4)
5. This refers to the primary deliverers responsible for the programme who have oversight and responsibility for its academic content e.g. Module Leaders. [↑](#footnote-ref-5)
6. If the module is not to be offered as an option module then consultation must be completed. [↑](#footnote-ref-6)
7. See Appendix 2 ‘Definitions’ [↑](#footnote-ref-7)
8. At the time of writing these procedures alternative technologies were being investigated by the Education Team and therefore it is advised to approach the Education Team if neither of the methods outlined here are deemed appropriate. [↑](#footnote-ref-8)