

Brighton Students' Union
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Dear Competition and Markets Authority,

We write to you on behalf of the 20,000 students we have the honour of representing, on a matter of critical urgency to not only them, but the millions of students in higher education. As a regulator, you have the formidable task of setting out the consumer rights of individuals, yet there remains a baffling lack of clarity in relation to these rights as they apply to students, which jeopardises them. The reality is, in comparison to many other sectors, students are simply not afforded the same consumer rights and we urge you to act on this immediately, considering the more than 2 million students that exist. Much debate has been had on the notion of students as consumers, but the bottom line is that they deserve the same rights as those in any other sector.

In the past, you have maintained that where an individual is receiving regular services for a regular payment as part of a contractual agreement, they will usually be allowed to withhold payment for the services they are not given or unable to access due to lockdown laws. We do not wish to commodify higher education – it is above that and it is a public good, but nonetheless, as it stands students are paying consumers and therefore, they deserve every bit of protection – this point should be universally embraced. As such, we ask you as a matter of urgency to clarify the following:

- Is this applicable with regards to student tuition fees and rent for accommodation?
- The Universities Minister has said that students can ask for refunds if they are not receiving a quality experience. Do you have a definition of quality for students so they can understand if they are eligible for a refund?
- As consumers, are students paying only for their learning or for both their course and the facilities, as well as a wider range of services?
- What are students' consumer rights, specifically in the context of Covid-19, that every student should expect, and what protections do they provide?
- What remedies should be offered where these are not delivered, and what is the stance on students not receiving a service as it has been described and promised?

- In what specific scenarios will students be entitled to a refund?
- Can student contracts be renegotiated considering this unprecedented disruption?
- What specific guidance can be made available by yourselves to clarify this position?
- What do you consider to be reasonable time limits for Universities to deal with complaints?

On the matter of withholding payment previously mentioned by yourselves, the Student Loans Company has said that students cannot request that this be done, which appears to contradict your position and again points to the need for urgent clarification. It is also important to stress that student fees do not solely go towards their course of study, but also contribute to facilities and wider services – the former which has been radically changed due to having to shift delivery during the pandemic and the latter having been severely restricted in many cases, preventing students from accessing some key services as part of an ongoing contract.

The matter of access is one that needs to be focused upon. This clearly signifies that students are entitled to protections and remedies, specifically as you have already stated that “consumers will normally be entitled to withhold payment for services that are not provided by the business or which the consumer is not allowed to use because of lockdown laws” and that “this may be a partial refund of the total amount the consumer has already paid”. Despite this, students’ financial obligations towards their institutions have remained unchanged.

If even in a global pandemic, where students are prevented by law from receiving the entitlements of their ongoing contracts, and their consumer rights are still not protected, then this begs the question of what are their rights and how does consumer protection law apply? And why have you not yet acted to clarify this as you have done elsewhere? We also note the need to enforce the guidance issued in 2015 to higher education institutions, which is particularly relevant during the pandemic, specifically when institutions are varying the delivery of course and thus need to always gain explicit consent from students to do so, as well as provide redress when students do not consent. The guidance emphasises that these students should be refunded and helped to find alternative courses elsewhere if their chosen course of study radically differs from what was advertised.

As the pandemic has disrupted various sectors, you have worked to produce specific guidance to assist those affected, yet you have not done the same for students. As a result, their remains a great deal of ambiguity in relation to their consumer rights and the protections they are entitled to, have been eroded. This has proved a significant obstacle in having any meaningful conversation in relation to accommodation and a tuition review for students, and progress is unable to be made until you address it. Your duties enable you to investigate various markets and determine what actions need to be taken to mitigate against harmful practices – you have yet to do this for students. It is also fair to say that the experience that has been sold to students, the one which they signed up for and agreed to as part of their ongoing contractual obligations, has been mis-sold to an extent.

We know to find ourselves in the same situation as the first lockdown, back when Covid-19 initially disrupted the UK. You have the power and have said last spring, that you would enforce various actions. While the Office for Students, the Department for Education and the government all have an integral role to play in addressing this, we hope you recognise that meaningful progress cannot be made in conversations with other sector bodies until you deliver clarity on this matter. These issues outline above cannot simply be referred to other bodies – there must be a set of standards which you clarify that will govern the position on them. Until then, students remain in limbo.

It is necessary that you take immediate action to clarify their consumer rights in order to prevent a generation of students, who represent our collective future, from suffering untold damage. Your statutory duties enable you to act in the public interest. We hope you begin to do this for students, who have been disregarded and deserve better. We look forward to hearing from you.

Yours sincerely,

Brighton Students' Union