

# **CMA RESPONSE TO SCOTTISH GOVERNMENT CONSULTATION ON STATUTORY SCHOOL UNIFORM GUIDANCE**

## **Introduction and Summary**

School uniforms are a major unavoidable cost to many families. This year the impact is yet more pronounced with families under pressure given tightening household budgets as a result of the current 40-year high rate of UK inflation, a situation that is likely to get worse as we head towards the winter. The cost is all the greater where schools require uniforms to be purchased from a single supplier. These requirements can add up to £10<sup>1</sup> to the cost of each item of uniform. This is a big financial impact for parents and carers.

The Competition and Markets Authority (CMA) and its predecessor organisation the Office of Fair Trading (OFT) have carried out a lot of work in this area, assisting both the UK and devolved governments to develop guidance for schools. The CMA welcomes the Scottish Government's [commitment to introduce new statutory guidance](#) for school uniforms in Scotland as a way to meet its policy objective to reduce the costs to parents and carers. The CMA sees statutory guidance as a flexible and direct way for governments to encourage schools to consider the financial impact of school uniform policy and how to use competition to deliver better value for money for families.

We hope this submission helps the Scottish Government in developing its guidance to tackle this critical issue. Introducing guidance will make a real difference, reducing costs for parents and carers quickly. We stand ready to share our knowledge and expertise of the sector and help ensure families in Scotland can benefit from the outcomes of competition.

## **Background**

The Competition and Markets Authority (CMA) is the UK's lead competition and consumer authority. Our statutory duty is to promote competition, both within and

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<sup>1</sup> Office of Fair Trading (OFT), Supply of school uniforms review, September 2006 - [\[ARCHIVED CONTENT\]](#) ([nationalarchives.gov.uk](http://nationalarchives.gov.uk))

outside the UK, for the benefit of consumers, and our mission is to make markets work well in the interests of consumers, businesses and the economy.

The CMA and its predecessor the OFT have received complaints from parents and carers for many years about the price and quality of school uniforms and in response has taken steps to encourage schools to tackle these concerns over the last 15 years. However, the continued annual cycle of complaints to the CMA and press reporting demonstrate that too often school uniform policy is imposing a financial cost on families.

Families question the cost of school uniform and whether it is legitimate for schools to restrict choice. The restrictions that families face include both being forced to buy what they consider to be unnecessarily branded items of school uniform and that the choice of where to buy those items is further restricted by exclusivity agreements between schools and school uniform suppliers or retailers. As a result parents and carers tell us they are prevented from buying cheaper and sometimes better quality school uniforms from alternative outlets, including department stores, supermarkets and rival local school outfitters.

The CMA and its predecessors have considered these complaints in depth and have developed our own evidence base, alongside research conducted by others.<sup>2</sup>

- In 2006, the OFT launched a review into the supply of school uniforms, concerned that competition may be restricted by exclusive contracts which could lead to higher prices for parents and carers. That study found that outlets with exclusivity arrangements were on average 23 per cent more expensive than general retailers for compulsory items. The average price difference for items of primary school uniform was 37 per cent and for secondary schools was 18 per cent. Outlets with exclusivity arrangements were found to be 150 per cent more expensive than supermarkets, on average.
- In 2012 the OFT wrote directly to headteachers, school governing bodies and school uniform suppliers about their obligations under competition law<sup>3</sup>. We urged headteachers to review their school's uniform policies to end any arrangements with a single retailer or supplier or to introduce competition into the process of choosing that retailer or supplier. The letter also encouraged them to carry out competitive tendering on a regular basis where they do enter into contracts.

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<sup>2</sup> For example, The Children's Society <https://www.childrenssociety.org.uk/what-we-do/our-campaigns/cut-the-cost-school-uniforms>

<sup>3</sup> Office of Fair Trading (OFT), Open letter to headteachers on restrictive arrangements, October 2012 - [ARCHIVED CONTENT] ([nationalarchives.gov.uk](http://nationalarchives.gov.uk))

- In 2015 we wrote to 30,000 headteachers, school governing boards as well as school uniform suppliers<sup>4</sup> in England to remind them about their obligations to parents and carers under competition law.
- In 2019, we wrote to the then UK Education Secretary to remind him of the UK government's commitment to introduce statutory guidance in England, reiterating that this was the most direct way of delivering change.

Both the Welsh<sup>5</sup> and UK<sup>6</sup> governments have already introduced statutory guidance to address these issues in their respective jurisdictions. In Wales, the guidance requires that school governing boards take account of cost and affordability in their uniform policies, and avoid contracts with single suppliers, unless regular tendering competitions are run. In England, the guidance makes clear that if schools enter into exclusive arrangements with suppliers to ensure that uniform is easily available, they should ensure that suppliers are required to compete for schools' business at least every five years and that the benefits of this competition are passed through to families.

The CMA believes that, subject to appropriate legislative provision, statutory guidance is the easiest and most direct way of delivering change that benefits parents, carers and businesses. The CMA worked closely with Welsh Government and the UK Department for Education (DfE) as they developed their respective guidance, providing advice and sharing our research and expertise on how to help schools ensure they use competition to deliver benefits to their pupils and their families and to help ensure compliance with competition law. We stand ready to work with the Scottish Government as they take forward and develop this guidance.

### **Why competition amongst businesses that supply school uniforms is important**

Competition will help to benefit both school uniform suppliers/retailers and their customers. For suppliers and retailers, competition incentivises them to be more efficient and offer better deals than their rivals to win or keep customers. This in turn drives their rivals to be more competitive. Customers then benefit from lower prices, better quality goods and services, new and innovative products and greater choice. Where schools enter into arrangements with suppliers and retailers which restrict the

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<sup>4</sup> Competition and Markets Authority (CMA) Open letter to head teachers, school governing boards and school uniform suppliers, October 2015 - <https://www.gov.uk/government/publications/letter-from-the-cma-to-schools-and-school-uniform-suppliers-on-competition-law>

<sup>5</sup> Welsh Government, Statutory guidance for school governing bodies on school uniform and appearance policies, July 2019 - [statutory-guidance-for-school-governing-bodies-on-school-uniform-and-appearance-policies.pdf](#)

<sup>6</sup> Department for Education (DfE), School uniforms statutory guidance, updated 19 November 2021 - [School uniforms - GOV.UK \(www.gov.uk\)](#)

ability of rivals to compete for that business competition is weakened and it can lead to higher prices, poorer quality products and services and more limited choice for their customers.

Many parents and carers have no choice but to buy school uniforms. They are an expensive and regular purchase, often taking place ahead of the new school year, which has a real impact on families across the UK – and particularly for larger families and those on low incomes.

Schools may choose to enter into exclusive agreements with retailers or suppliers to ensure a secure supply of uniform, but should do so by holding an open competition, inviting businesses to compete for that right to provide uniform. Where there are no restrictions on the number of outlets selling their children's uniform, and especially where individual items of uniform are not bespoke to the school competition is likely to provide parents and carers with greater choice and opportunity to shop around and find the best deals.

### ***Potential anti-competitive arrangements and conduct***

Schools and their suppliers need to understand that they are subject to competition law. Where schools appoint uniform suppliers or retailers, especially where exclusivity arrangements are put in place, they need to ensure they have taken steps to comply with the law.

The competition law compliance risks are greatest where there are long-term exclusive arrangements between schools and uniform suppliers or retailers and those suppliers and retailers abuse that position by, for instance, charging excessive prices. These types of arrangement or conduct may break competition law and could be investigated formally by the CMA.

Undertakings that are found to have broken competition law can be fined up to 10% of their annual turnover and ordered to change their behaviour. Enforcement action is costly and time consuming for all parties. The CMA believes that the introduction of appropriate guidance, and adherence to that guidance by schools, is a far more proportionate and effective approach, particularly given constrained school budgets.

### **What schools can do now?**

Schools will need to ensure that they take on board parents' and carers' views on school uniform policy, consulting parents to understand both the benefits of maintaining a strong school identity through uniform but also how that policy puts pressure on family budgets. This will help to ensure that schools understand the importance of achieving value for money when selecting school uniform suppliers and retailers. A periodic review of the policy might for example lead to a policy that

allows greater flexibility on some elements of uniform while maintaining rigidity on others. School uniform policy should always be designed to drive competition between suppliers and retailers, either by avoiding exclusivity including appointing several outlets, or where there is a specific justification for not doing so, ensuring that the sole outlet is subject to a competitive tender on a regular basis.

We strongly recommend that schools periodically test the market by reviewing their current commercial arrangements with suppliers and retailers. It is important to ensure that contracts and especially those with exclusivity are not simply rolled over in perpetuity. We would expect that any exclusivity arrangement should not last more than five years without it being subject to some form of competition from rival suppliers or retailers.

Alongside this, schools could also provide a comprehensive list of school uniform items which specifies which specific items are only available from certain retailers and which can be purchased from any retailer, so that families know when they can shop around.

Where the school is itself the retailer to pupils and their families, guidance should be clear that the school should not seek to charge excessive prices and should use its own role as purchaser to drive a better bargain for pupils.

When schools review their uniform policy they should do so with a view to ensuring that the policy looks to drive competition between suppliers and retailers, whether by appointing several outlets, or, where there is a specific justification for not doing so, ensuring that the sole outlet is subject to a competitive tender on a regular basis.

### **Next Steps**

We hope that this submission helps the Scottish Government shape its guidance so that it can help to foster healthy competition in the supply of school uniforms. This will help to ensure that parents and carers are able to buy good quality, affordable items of school uniform from different outlets. We remain committed to working with the Scottish Government as it develops its guidance and wider policy in this area.

**Competition and Markets Authority**

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