

## School Uniform Policy Consultation - response from the Competition and Markets Authority

### Background

1. The CMA is the UK's principal competition and consumer authority. It is an independent non-ministerial UK government department. Its responsibilities include carrying out investigations into mergers and markets and enforcing competition and consumer law. The CMA helps people, businesses and the UK economy by promoting competitive markets and tackling unfair behaviour.<sup>1</sup>
2. The CMA has a role in providing information and advice to government and public authorities.<sup>2</sup> The CMA's advice and recommendations are made with a view to ensuring that policy decisions take account of the impacts on competition and consumers.
3. School uniforms are essential items for many families, and rising costs due to a lack of competition add pressure to already constrained household budgets. As the Department of Education (DE) sets out in its [School Uniform Policy Consultation](#), there is considerable evidence that this is a significant concern for parents and carers, with 78% of surveyed parents in Northern Ireland saying that covering the costs of back to school overall is a financial burden and 65% believing schools do not do enough to keep the costs down. Evidence from The Children's Society for the UK shows that decisions made by schools have a significant impact on the prices paid by parents and carers. For example, where parents had to buy two or more items from a specified supplier, the average cost of primary school uniform was around 50% more expensive.<sup>3</sup>
4. The CMA and its predecessor, the OFT, have examined the drivers of uniform prices, considered why competition may not be working effectively in the

---

<sup>1</sup> The CMA's statutory duty is to promote competition, both within and outside the UK, for the benefit of consumers.

<sup>2</sup> Under Section 7(1) of the Enterprise Act 2002, the CMA has a function of making proposals, or giving information and advice, "on matters relating to any of its functions to any Minister of the Crown or other public authority (including proposals, information or advice as to any aspect of the law or a proposed change in the law)."

<sup>3</sup> The Children's Society, [The Wrong Blazer \(2020\)](#).

market, and taken steps within our powers to encourage schools to tackle the drivers of high prices. As well as writing directly to headteachers, school governing bodies and school uniform suppliers about their obligations under competition law,<sup>4</sup> the CMA has engaged with governments across the UK to support them in developing measures to address high uniform costs, including statutory guidance for schools on uniform policies.<sup>5</sup> Encouraging schools to set a uniform policy that allows multiple suppliers to compete for the custom of parents and carers has been central to this work.

5. Underpinning our approach is the fact the total prices of school uniforms are directly and significantly influenced by the decisions made by schools about uniform requirements. In particular – as discussed further below – where schools mandate branded uniform items, and/or they require items to be bought from a single supplier (or the school itself). This reduces competition and raises prices significantly for those items. This compares with schools that allow pupils to wear ‘generic’ items available at a wide range of clothing retailers, which means competition and lower prices.
6. The CMA continues to support action that lowers the price of school uniforms, particularly action that addresses the decision-making of schools. The CMA has advocated for and supported the introduction of statutory guidance for schools as the primary way to achieve this. DE is proposing to introduce statutory guidance for schools and is considering further policy options that may complement statutory guidance, particularly price controls.
7. Our response to the DE [School Uniform Policy Consultation](#) is structured as follows:
  - (a) **The school uniform market:** We first outline some features of school uniform markets that differ from typical markets. This context helps inform consideration of the impact and role of policy interventions within this sector.
  - (b) **Statutory guidance:** The CMA is supportive of the use of school uniform statutory guidance and has previously engaged with the UK, Scottish and

---

<sup>4</sup> For example, in 2012 the OFT [wrote](#) directly to headteachers, school governing bodies and school uniform suppliers about their obligations under competition law. In 2015, the CMA [wrote](#) an open letter to 30,000 headteachers and school governing boards, as well as school uniform suppliers, in England to remind them about their obligations to parents and carers under competition law.

<sup>5</sup> For example, in 2019, the CMA [wrote](#) to the then UK Education Secretary to remind him of the UK government’s commitment to introduce statutory guidance in England. In 2021 the CMA [published](#) a blog following the introduction of statutory guidance in England. In 2022, it [published](#) a consultation response to the Scottish government consultation on statutory school uniform guidance.

Welsh government. In this section we answer some specific questions outlined in the consultation.

- (c) **Price controls:** Introducing new price controls in a market typically comes with risks of unintended consequences and complexities around design and implementation, some of which we set out in this section. We recognise, however, the exceptional features of this market (see para 11) and proposal, particularly that the cap would apply to the school as the ‘market maker’ rather than to suppliers. We therefore set out some design considerations if the NI Executive decides that such an intervention is helpful or needed alongside statutory guidance.
8. The CMA is happy to discuss the contents of this response with DE and stands ready to engage further and provide support to DE as it finalises its approach.

## **The school uniform market**

9. The school uniform market involves making and selling clothes specifically for pupils to wear at school. Uniforms are typically standardised outfits that are intended to create a sense of belonging and equality among pupils. Uniforms are mandated across many schools in the UK. Mandatory school uniforms create consistent demand from parents and carers. Suppliers manufacture and distribute uniforms and, in principle, compete based on quality, price and customisable options.
10. Competition benefits 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 – competition enables better and cheaper suppliers and retailers to grow their businesses. 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 ability of rivals to compete for that business, competition is weakened. This can lead to higher prices, poorer quality products and services, and more limited choice for their customers.
11. There are two significant features of the school uniform market that differ from typical markets. First: schools (a public body) make decisions that influence the cost of a uniform, but it is parents and carers that face the cost of these decisions. Second: parents and carers face limited or no options if they are unhappy with the prices, quality or options resulting from school uniform policy. Unlike many other markets, they cannot choose to go without or switch

to cheaper options (unless allowed by the school uniform policy). School uniforms 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.

12. Given these features, the following decisions by schools tend to increase the costs faced by parents and carers:
  - (a) **Setting uniform rules:** Schools can set uniform requirements that lead to higher costs for parents and carers. Both the number of branded items and the degree of branding and detailing raise the cost to produce the school uniform.<sup>6</sup> They also make it likely that only a single (or small number) of firms will supply the school uniform. Reducing the number of suppliers due to requiring branded uniform items is likely to reduce competition between suppliers and lead to higher costs for parents and carers. Establishing or enabling the ability to ‘self-serve’ (eg ironing on patches to widely available standard items) can mitigate this impact.
  - (b) **Exclusive supply:** If a school uniform can only be purchased from one supplier, the absence of competition means that the supplier is able to charge higher prices and/or provide a poorer quality of products and services. This can get worse where exclusive supply is for an extended period of time. Exclusive supply can be formally included in contracts between schools and a school uniform supplier, or can be the result of a high degree of branding, meaning it would not be sufficiently profitable for a second school uniform supplier to produce the bespoke branded items. 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, this is likely to provide parents and carers with greater choice and opportunity to shop around and find the best deals.
  - (c) **Other contractual arrangements:** There may be other arrangements within contracts between schools and uniform suppliers that may raise the prices of school uniforms. The consultation sets out the example of additional incentives for schools to contract with an exclusive supplier (for example, provision of staff kit at no cost to the school).

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

13. Both schools and their suppliers are subject to competition law. Where schools appoint uniform suppliers or retailers, especially where exclusivity

---

<sup>6</sup> Any reference to branded items follows the description used in paragraph 2.10 of the consultation.

arrangements are put in place, they need to ensure they have taken steps to comply with the law.

14. 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 by the CMA.
15. Those 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 and the many demands on their time.

## **Statutory guidance**

### ***Response to Question 1 “Do you agree that schools should be legally required to comply with Departmental uniform guidance?”***

16. The CMA believes that statutory guidance is the most direct way of delivering change that benefits parents, carers and businesses. The CMA worked closely with Scottish Government, 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 they comply with competition law.

### ***Response to Questions 6-8 “Do you agree with our proposals that schools must review their uniform policy and explain their decision to use any unusual colours or designs?”; “Do you agree that where a crest is considered necessary on a blazer or jumper that an option to purchase the crest alone should be available?”; “Do you agree that this crest should be reusable?”***

17. 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.
18. The CMA is supportive of proposals aimed at lowering the price of school uniforms. The proposals outlined in questions 6-8 are all sensible options that

are likely to simplify school uniforms and increase the likelihood that multiple suppliers can sell school uniforms to parents and carers for any given school. Where this occurs, it will give parents and carers the ability to shop around, and the greater competition between suppliers should lower the cost of school uniforms.

***Response to Questions 9-11 “Do you agree that branded sports kits should not be compulsory elements of a school PE kit?”; “Do you agree that parents should only have to purchase specific branded or school sports kits when their child is chosen to represent the school, either as part of a team or individually?”; “Do you agree that schools should aim to have team kits available for loan for those representing the school?”***

19. Branded PE kits will add to the total number of branded items of school uniform, and are therefore likely to raise the total cost to parents and carers. While the CMA does not have a view on which elements of compulsory school uniform it is most appropriate to include branding on, the CMA supports measures that reduce the total number of branded items and degree of branding across a school’s uniform. This might be achieved, as suggested here, by ruling out specific elements of school uniform from branding. Alternatively, it might be achieved by placing limits on the number of branded items across a school uniform.

***Response to Question 12 “Do you agree that all schools should be required to list more than one supplier of their compulsory uniform items?”***

20. The CMA is firmly of that view that uniform policy should seek to drive competition between suppliers and retailers, whether by appointing several suppliers and/or maximising the amount of uniform that can be bought from ‘generic’ retailers. Requiring schools to list more than one supplier of their compulsory uniform items would help meet this aim. Such requirements are likely to be most effective at reducing prices when combined with measures to reduce the number and degree of branded school uniform items.
21. If schools are permitted to list just one supplier, it should be a requirement that the supply of the relevant items is subject to a competitive tender on a regular basis. It is important to ensure that contracts and especially those with exclusivity are not simply rolled over in perpetuity. If exclusivity is permitted, 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.
22. 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 deal for pupils, parents and carers.

***Response to Question 13 “Do you agree that any financial or in-kind benefits to schools from arrangements with suppliers or manufacturers should be published?”***

23. Financial or in-kind benefits to schools from arrangements with suppliers or manufacturers are very likely to raise the prices of school uniform faced by parents and carers. It is, however, for policymakers to assess the trade-off between the prices paid by parents and carers for school uniforms, and the benefits provided to schools from such arrangements.
24. Transparency about such arrangements is unlikely to reduce their impact on prices. As it is schools themselves that enter into these arrangements, parents and carers cannot act on the information. So although they can appeal to the school to change their arrangements, there is no direct mechanism for this transparency to reduce the impact of these arrangements on prices.

***Response to Question 19 “Do you agree that engagement with parents on uniform policy should be mandatory?”***

25. Consulting parents and carers would help to reinforce 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, or, where there is a specific justification for not doing so, ensuring that any exclusive arrangement is subject to a competitive tender on a regular basis. The case for mandatory engagement will also depend on the extent to which it adds to existing demands on the time and resources of schools.
26. However, it is important that such consultation with parents and carers is not used by schools as a justification not to follow any statutory guidance. This might be a particular concern if a majority (or more engaged minority) of parents or carers were content with a non-compliant policy that increased costs for all parents and carers, potentially making school uniform unaffordable for some.
27. We encourage DE to consult its counterparts in other nations, particularly for learnings on achieving compliance with statutory guidance.

***Response to Question 15 “Do you agree that a key consideration in all actions taken by the Department should be to encourage schools to change their practice in setting uniform policies to ensure there is a competitive market for uniform items?”***

28. Yes. The CMA is strongly supportive of encouraging schools to change their practice in setting uniform policies to ensure there is a competitive market for uniform items. We believe this is critical to achieve the policy aim of reducing the costs of school uniforms for parents and carers, and can be achieved through many of the outlined proposals, such as reducing the number of branded items and ensuring schools do not enter long exclusive contracts with suppliers.

## **Cost cap**

***Response to Question 14 “Do you consider that a method of cost control should be introduced, for example, a cost cap?”***

29. The CMA does not have a view on whether a price control method should be introduced alongside statutory guidance. This view reflects the exceptional features of this market. Our understanding is that the proposed cost cap would be applied to schools rather than suppliers (who set prices), meaning the proposed cap is intended to be an additional way of influencing the decisions made by schools that affect the cost of school uniform. The proposed ‘cost cap’ differs to a typical ‘price cap’ which sets a maximum price that a supplier can charge for a specific good or service. We believe that some of the learnings from price caps can help support the NI Executive’s consideration, and potential design, of a cost cap. We therefore outline the general risks and implications of implementing price caps below, before covering potential design considerations for a cost cap in this particular context should the NI Executive decide a cost cap is a helpful complement to statutory guidance.

### ***Risks and implications of a price cap***

30. In a market that is working well, effective competition between suppliers provides pressure to keep prices low and quality high. A price cap is a form of government intervention that limits the maximum price of a product or service.
31. Price caps do not address the underlying cause of why a particular market is leading to high prices. Instead, they address the ‘symptom’ of high prices. As



such, thought should be given to their design, and the risks of unintended consequences:<sup>7</sup>

- (a) **Setting the price cap at the right level:** If the price cap is too low, businesses may not supply the product or service, or it can reduce the quality of products or services that would be expected in a competitive market. If the price cap is too high, it may become a ‘focal point’ for suppliers and the prices may all rise to that cap and be higher than they would otherwise.
- (b) **Dynamic impacts:** Policymakers will need a mechanism to adjust prices over time, as things like cost of manufacture change. This mechanism can be challenging to create and maintain, and may lead to higher prices and worse outcomes over time than without the cap, particularly if information is needed from suppliers to judge the level of the price cap. A cap essentially removes competition as the means of driving price and replaces this with a periodic decision by policy makers. Additionally, price caps may also lead to worse long-term outcomes if they make it harder for new (innovative) business models to emerge, for example, due to restrictions or definitions imposed through a price cap.
- (c) **Lack of compliance:** Policymakers will also be responsible for setting up effective oversight, compliance and enforcement mechanisms. If compliance with the cap is not achieved across the market, this undermines the objective of the cap and introduces further distortions to competition between suppliers.
- (d) **Pricing ‘leakage’:** In some cases suppliers may be able to technically meet the requirements of a price cap while finding ways to re-introduce further costs to buyers that fall outside of the price cap. The incentive for businesses to do this persists due to not addressing the underlying cause of high prices.
- (e) **Differentiated products:** For a product that is not relatively consistent across suppliers, a single price cap might reduce choice or lead to pockets of bad outcomes. Suppliers choosing not to serve specific geographic areas may be an example of this.
- (f) **Resource and capacity:** Linked to all points above if a price cap is introduced to the market, policymakers will need to ensure they have the

---

<sup>7</sup> These build on the risks identified in the consultation para 2.27.

appropriate skills and resource to effectively design, monitor and adapt the cap over time.

### ***Cost cap design considerations in the context of school uniforms***

32. In this section we draw on our general reflections of price caps outlined above, and apply it the cost cap policy option outlined in the consultation. The cost cap proposed in the consultation differs from price caps typically seen in other markets in a number of important ways. First, it is intended to apply to a non-specific bundle of goods (a collection of different compulsory school uniform items decided on by the school) rather than a price cap on a single product. Second, it does not apply to the supplier of the school uniform or any other part of the supply chain. Instead, it is proposed to apply to the schools who set the requirements for compulsory school uniform. School uniform suppliers would continue to set their own prices for individual items of school uniform and compete with one another on price and quality. The proposed cost cap is therefore intended to play a similar role to statutory guidance, by influencing the decisions that schools make that affect the cost of school uniforms.
33. If a cost cap is adopted, we would encourage DE to keep in mind the following considerations and risks of unintended consequences:
- (a) **Setting the initial cost cap:** In the school uniform market, the risk that a cost cap acts as a ‘focal’ point for suppliers setting prices is likely to be mitigated if schools are not permitted to enter exclusive contracts with suppliers. If exclusive supply is permitted, however, then there may be a risk that the cost cap becomes a ‘focal’ point for businesses bidding for contracts. In the school uniform market, there may be a separate risk that some schools with a compulsory uniform already below the cost cap could view the cap as the ‘acceptable level’, and reduce efforts to achieve costs lower than the cap. Given the intention to encourage schools to have more items of ‘generic’ uniform that can be bought from different suppliers, it seems likely that risks of the cost cap being too high are greater than the risks of the cost cap being too low. In establishing the right level of a cost cap, DE would need to gather data on actual school uniform prices and existing school uniform policies.
  - (b) **Avoiding increased use of exclusive suppliers:** Some schools may decide that the easiest way to ensure compliance with a cost cap is to have an exclusive supply contract (if this is permitted), with one firm providing all items of compulsory school uniform. Such an outcome would reduce the level of competition between suppliers and undermine the policy objective to reduce prices. DE should consider how the statutory

guidance could be used to avoid this outcome. This might include direct restrictions on exclusive supply as proposed, and/or providing guidance or comfort to schools on incorporating prices from suppliers with whom they do not have contracts (eg setting out how compliance would be approached if a non-contracted supplier of generic uniform whose prices schools had factored into their assessment later raised their prices). Alternatively, DE could consider applying the cost cap only to branded parts of a compulsory school uniform (at a lower level than it would for the entire uniform).

- (c) **Potential for a cost cap as a transitional measure:** DE could consider whether a cost cap could be used as a temporary or 'one-off' measure, requiring all schools to bring the price of their school uniforms below a certain level, before relying on the statutory guidance to provide an ongoing constraint on school decision making. This would remove the need for policymakers to adjust the cost cap over time.
- (d) **Ensuring compliance with the cap:** DE would need to identify an appropriate mechanism to monitor and enforce a cost cap and provide clarity to schools on what they need to demonstrate in order to be confident that they are complying with the cost cap. Similar considerations may apply to compliance with statutory guidance. Typical enforcement measures for breaching price caps (eg fines or losing license to supply) may not be appropriate in the context of the obligation being placed on schools.

## **Competition and Markets Authority**

September 2024