

Guidelines for schools

Having considered the replies provided by schools to the Article 27 notice, we have reached the view that we should update the guidelines issued by the JCRA in November 2010. The updated guidelines are set out below.

It is important to note that the guidelines are not merely informed by the requirements of the Law. In some cases, even where schools' uniform arrangements appear to be in compliance with the Law, we believe that there are steps that could be taken to reduce expenditure by parents/carers on school uniforms and/or to improve the range of outlets available for the purchase of uniforms.

1. Where feasible, school uniforms should be available from several retailers

In most cases, competition is best secured by having multiple suppliers. Where uniforms are only available from a single retailer, the likely outcome is that prices will be higher and/or quality of service will be lower than would be the case if the retailer faced at least one rival. In particular, we have concerns that retailers with a *de facto* monopoly on the supply of a school's uniform face reduced incentives to source uniform items at the lowest price.

Based on the responses to the Article 27 notice, more than half of all schools in Jersey continue to rely on a single retailer to supply bespoke school uniform items to parents and carers. In almost all cases, we were informed that the arrangement was not exclusive, but that arrangements with a particular retailer had simply continued over a number of years.

We are aware of several retailers that sell school uniforms in Jersey, including (in no particular order): Lyndale Sports, Trinity; JSSK, St Brelade; Shoestring, St Brelade; Redvers, St Helier; Oasis Direct, St Lawrence; and Vowdens, St Helier. We understand that one or two of these retailers have approached schools to discuss stocking their uniform. We would expect all schools to be receptive to such approaches, and, within reason, to facilitate that supply (eg by adding the new retailer's details to internal handbooks). If schools were to refuse such approaches, then the analysis would almost certainly be that they were party to an exclusive agreement with the existing retailer, and we would have serious concerns as to whether such an agreement could comply with the Law.

For the sake of completeness, I should note that there are a few schools where uniform provision is conducted entirely by the school or its PTA on a not-for-profit basis. Given the absence of any agreement with a retailer, such arrangements are likely to lie outside the ambit of the Law. Moreover, the Article 27 responses provided by those schools strongly suggested that they had taken active steps in order to secure best value for parents and carers.

We are aware from discussions with ESC that issues have arisen in relation to the use by certain uniform retailers of schools' crests and logos, in order to create uniform items. We understand that ESC has obtained legal advice that schools hold copyright over their crests and logos, and that their permission is therefore required before those crests and logos are used for commercial advantage. Our expectation would be that schools would grant such permission to any uniform retailer who approached them, subject only to conditions regarding the correct reproduction or application of the crest or logo. Were it to come to light that schools had any exclusive arrangements for the use of crests or logos, we would again scrutinise such arrangements very closely in considering whether they were in compliance with the Law.

We understand that certain schools have considered withholding permission for use of their crests or logos due to concerns about the quality of the clothing supplied. We would have serious concerns if such a criterion were used when giving permission, as it could be used to limit competition between uniform retailers. Our firm preference would be that parents and carers be left to decide on the quality of children's uniforms (just as they decide on the quality of clothes that they purchase more generally).

2. Where it is undesirable for school uniforms to be available from multiple retailers, schools should engage in rigorous tender processes when selecting retailers

We accept that there may be circumstances in which it would be undesirable for the uniforms of a single school to be stocked by more than one retailer. For example, in some cases, having multiple retailers would lead to smaller batch sizes for uniform items of particular sizes - such batch sizes may not even be available from manufacturers or wholesalers outside Jersey, or, if available, the cost per item might be considerably higher.

There is provision in the Law for agreements that would otherwise be anti-competitive to be exempted by the JCRA if: there are economic or technological benefits that stem from the restriction on competition; there is no other less restrictive means of delivering those benefits; and the benefits will be passed to consumers. The Law stipulates that exemptions can only be granted by the JCRA after the receipt of a formal application. However, given the not-for-profit nature of the education sector, as a matter of policy, in the absence of formal exemptions, the JCRA would not intend to pursue arrangements that would otherwise have qualified for exemption.

Lower prices and better customer service can be secured through single supplier agreements, provided that:

- The supplier is selected through a rigorous tender process; and
- The agreement is limited in duration (to no more than 5 years).

We recognise that any tender requirement should be proportionate. In particular, the extent and formality of any tender process will depend on the proportion of the uniform that is bespoke, and the proportion of the school's students that are required to wear those items. For example, if the bespoke element of a school's uniform is limited to a tie worn by boys in only 2 or 3 form levels, then the efforts expected of the school in surveying alternate suppliers or retailers to secure 'best value' would, of course, be considerably less than for a school where the entire uniform is bespoke and compulsory, and the expenditure required of parents and carers was substantial.

The terms of any tender must be directed to securing the best outcomes for parents/carers and students, in their capacity as consumers of school uniforms (eg covering matters such as uniform prices, product quality, reliability of supply and shop opening hours), so that the efficiency benefits of exclusivity are passed down to consumers. In the assessment of tenders, no weight should therefore be placed on the provision of benefits that are extraneous to uniform supply, such as the payment of commission to schools or provision of bursaries for individual students.

We are aware of at least one school that has announced an intention to conduct a tender for uniform supply once its existing supply arrangements come to an end in 18 months' time. While we recognise that this is a long lead-time for a movement to competitive arrangements, we are happy for this to occur, provided that a robust tender is used as soon as it is feasible for new supply arrangements to be put in place.

3. Where appropriate, schools should provide their own sources of uniform supply

We welcome the fact that many schools have reported that they operate uniform shops (often for second-hand items) on school premises. In addition, we have been told that a number of schools supply individual badges/patches, so that parents/carers are able to create items of uniform by sewing badges/patches on to generic items of clothing.

Where schools do not currently operate uniform shops or do not currently supply badges/patches, we would strongly recommend that head teachers consult with PTAs to ascertain whether there is demand among parents for those products and services.

4. When reviewing uniform policies, schools should consider whether items of uniform need to be bespoke

We recognise that it is certainly not the role of a competition authority to be advising schools as to the design of school uniforms. However, it is undoubtedly the case that a contributing factor to the high cost of certain school uniforms in Jersey relative to the UK is the degree to which those schools' uniforms contain bespoke elements.

Many schools in the UK and Jersey prescribe certain bespoke items of uniform (eg jumpers or ties), but allow all other items (eg shirts, shorts, trousers, dresses, gym kit) to be generic items of a particular colour or pattern purchased from a general clothes retailer. We believe that the interests of parents of school pupils would be served if schools, when reviewing uniform policies, could consider carefully whether bespoke items of uniform are in fact always necessary.

Both the JCRA and ESC would be happy to advise individual schools on the issues covered in this letter. Please contact Kerstee Norris, Competition and Markets Manager, JCRA (kerstee.norris@cicra.je; 01534 514995) or Cliff Chipperfield, Business Manager – Schools and Colleges, ESC (c.chipperfield@gov.je; 01534 449471).