

be connected newsletter for education - July 2022

In this edition we provide you with the latest in legal updates, news and insight from the sector.

18 July 2022

Welcome to **be connected**, our termly update for schools, academies and trusts. With so many new developments in policy and legislation to consider for the academic year ahead, we've prepared a bumper edition for you. This issue of **be connected** is packed with the latest legal updates, news and insight from the sector.

Remember - **be connected** is your space – it is important to us that the mix of content offers you real value and relevant, useful information. Please help us to help you by providing feedback and comments. What would you like to see featured in the newsletter – and would you like to be part of a future edition?

[Get in touch and let us know!](#)

New legislation

A guide to the Schools Bill 2022

The Schools Bill is one of the most significant pieces of legislation the sector has seen in recent years. Whilst in some respects it is a natural and necessary regulatory evolution that reflects where the sector finds itself today, the resulting legal reform will be impactful.

The Bill covers the regulation of academies, funding, attendance, the regulation of independent institutions and teacher misconduct. We recently published a series of briefings to help you understand what the Bill means for your school or trust. We will of course update these briefings as the DfE bring forward revised proposals in respect of the highly publicised temporary removal of a raft of clauses from the Bill.

[Read more >](#)

New guidance and support for school exclusions

This summer, the DfE is releasing new guidance on exclusions and suspensions, making changes to the behaviour, suspension and exclusion framework and guidance. Our team has designed a range of high-quality support and resources to help you prepare for and implement processes to meet these new regulations, which come into practice this September. The resources on offer include the [free one hour webinar](#) we recently delivered, which is now available on demand and a [comprehensive support pack of templates](#) to manage the process, along with [training sessions for governors](#) and a range of support at Independent Review Panels.

[Access the full range of exclusions resources >](#)

What does changing government policy mean for faith academies?

A significant section of the new Schools Bill deals specifically with putting into legislation certain protections and guarantees historically granted to the faith academies sector. With faith schools accounting for more than a third of the education sector, it is highly unlikely that any government would be bold enough to unilaterally remove the rights historically granted to faith schools and academies, but even the suggestion might lead to awkward questions being asked of the Department for Education and result in a potential slowdown in conversions — something which might scupper the Government's plans for mass academisation as set out in the recent White Paper.

[Read the full article here >](#)

Guidance

Keeping Children Safe – be ready for September

The new Department for Education (DfE) safeguarding guidance 'Keeping Children Safe in Education 2022' brings some significant changes, particularly around sourcing high quality governor and trustee training and requirements to carry out online searches for shortlisted candidates. We recently delivered a webinar which set out what you need to know and how best to prepare, and we're building further support, advice and training so you can be ready for these changes when the guidance comes into practice this September.

[Advice on how and when to carry out online searches >](#)

[Watch the KCSiE22 webinar >](#)

How to form or join a multi academy trust

We have been working in partnership with the National Governance Association (NGA) and the Association of School and College Leaders (ASCL) on the development of an important guidance paper, 'Taking the next step – a guide to forming or joining a multi academy trust'. We are delighted to announce its publication and to share it with colleagues across the sector. Given the academisation agenda set out in the recent White Paper, this guidance is in greater demand than ever, so we hope you find it useful.

[View the new 'Taking the next step' guidance >](#)

[For MAT mergers, see this guide for trust leaders and trustees >](#)

Case law

Can Long Covid amount to a disability?

On 7 May 2022, the Equality and Human Rights Commission (EHRC) tweeted "Discussions continue on whether 'Long Covid' symptoms constitute a disability. Without case law or scientific consensus, EHRC does not recommend that 'Long Covid' be treated as a disability."

This view raised some immediate concerns, not least because it seemed to run contrary to the views expressed by the EHRC Head of Employment policy back in March 2022: that organisations should assume Long Covid symptoms meet the threshold to be classified as a disability in order to avoid breaches of equality law. Our HR specialists consider the implications and considerations for employers in the education sector, offering practical advice for long term absences due to Long Covid.

[Read more >](#)

Equalities Act - dependent SEN appeal dismissed

To plead the EQA 2010, or not to plead the EQA 2010 - that was the question: the Upper Appeal Tribunal considers the interplay between the Children and Families Act 2014 (CFA) and the Equality Act 2010 (EQA).

On 11 May 2022, the Upper Tribunal returned its decision on an appeal which concerned the interface between special educational needs (SEN) provision under the CFA and obligations under the EQA. After hearing submissions from both parties, the judge dismissed the Appellant's appeal.

Browne Jacobson Barrister Andrew Cullen represented the Respondent and shares his insight from the tribunal and potential implication for other school discrimination cases relating to these acts.

[Read more >](#)

You may also be interested in...

Developing a whole school approach to flexible working

The effect of the current staffing crisis in schools can have a significant impact on the workload and wellbeing of those working in the teaching profession.

Evidence suggests that flexible working can positively influence staff retention and recruitment so could offer some solutions to these challenges, but inevitably brings complications around timetabling and culture. Unsurprisingly, so there is a degree of uncertainty in schools as to if and how flexible working can be implemented.

Timewise recently conducted a Teaching Pioneers Programme in eight secondary schools across three multi-academy trusts which Browne Jacobson was able to support, along with others.

[View the reports from this programme >](#)

Long-awaited guidance on transgender issues in development

It has been reported that new government guidance to help schools navigate transgender issues is in the early stages of development. Given that [Scotland released their own guidance](#) for schools last August and a number of councils have published their own toolkits (despite facing legal challenge on the content), it is clear that government guidance for schools in England is long overdue.

There is a lot going on at present relating to transgender issues, from the publication of the [Cass interim report](#) in February 2022 to the [EHRC's recent guidance for single-sex service providers](#) and the lawfulness of excluding transgender people from single sex services.

There are also a number of new cases and appeals on transgender issues waiting to be heard by the courts. It is within this context that schools are trying to support pupils questioning their gender identity on issues relating to toilets and changing facilities, sporting events, changing names and pronouns, uniform, safeguarding, records, data sharing and confidentiality. Guidance to reassure schools that they are acting lawfully will no doubt be a welcome development.

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