

# be connected newsletter for schools - Winter 2022

09 December 2022

Welcome to be connected, our termly update for schools, academies and trusts. As always, this issue is packed with the latest legal updates, insights from the sector and experts support and guidance from our team.

Remember - be connected is your space – what would you like to see in future editions?

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

## Policy and legal updates

### How does the UK education sector fare amidst the energy crisis?

The world is currently living through one of the most significant global energy crises that has been seen in modern times, with energy prices and bills soaring at an unprecedented rate. With bills rising steeply some education trusts are seeing predicted rises in energy costs in upwards of £1m or more.

Following pressure from leaders across the sector the government has introduced the Energy Bill Relief Scheme, which will provide public sector entities, including schools, with energy discounts for a period of 6 months up to 31 March 2023. In this article we consider whether UK Government support is enough to support the sector, the associated challenges and share our perspectives and those of other sector leaders on these issues.

### Children's commissioner's recommendations for SEND reform

The Children's Commissioner, Rachel De Souza, has recently published a report titled "Beyond the labels: a SEND system which works for every child, every time", which she hopes will put children's voices at the heart of the government's review of the Special Educational Needs and Disability (SEND) system.

Four key messages came out of the Children's Commissioner's research as follows:

- Children are ambitious, but do not always have excellent support.
- The SEND system should work for all children.
- Children want services to work together to provide seamless support.
- Children don't always feel understood.

These conclusions have been translated into three over-arching ambitions which the Children's Commissioner hopes will be considered by the DfE to reform SEND and drive inclusion.

### School complaints management - exploring a new way forward

There's greater opportunity than ever for parents, carers and guardians to voice any concerns they have relating to their child's education and for their concerns to be heard and to be taken seriously.

While most staff in schools and academies are conscious of their legal duties relating to complaints management, many are struggling to cope with such a significant increase in the volume of complaints they must manage.

With potential changes to the regulation of school and academy complaints being proposed in both the Schools Bill and Sir David Bell's review of the ESFA earlier this year, now is a good time for parents and the schools and academies sector to reflect on what might be the optimal and most balanced way to address some of these challenges.

## Assaults on staff - how can schools reduce the risk?

The risk of assault against staff is, sadly, something that all schools need to consider carefully. Here, one legal expert explains what they can do to protect staff and ensure they fulfil their duty of care.

Injuries to teachers and support staff due to assaults by pupils can be serious and unfortunately, on occasions, life-changing. What's more, as identified by recent research covered by TES, an assault is something that many in the sector have experienced.

So, how can schools manage the risk in a way that keeps staff safe without impacting on learning? Find out what you can do to reduce the risk of assaults on staff in this article, first published in the TES.

# Guidance

## The Independent Inquiry into Child Sexual Abuse: a guide

Following the recent report on the findings following The Independent Inquiry into Child Sexual Abuse (IICSA), we've published some practical guidance to support schools and trusts. The report makes a number of far-reaching recommendations and in our guide, Dai Durbridge highlights seven of the report's 20 recommendations, sets out how they could impact schools and suggests what steps they should now take.

## Managed moves between schools

Since the latest Suspensions and Exclusions Statutory Guidance was published, we've received a lot of questions about the use of managed moves. For the first time, the statutory guidance explains what a managed move is, but does so in relatively broad terms and does not cover the mechanics of how a managed move should operate.

The new guidance makes it clear that a managed move should only be used where it's in the pupil's best interests, and that more information-sharing is required so that the new school is able to support a pupil from day one. These changes mean that managed moves have a greater dependence on reciprocity required between schools to ensure a successful transition.

## Hair discrimination – stop pupils being unfairly singled-out for their appearance

The Equality and Human Rights Commission (EHCR) recently issued new, non-statutory guidance regarding natural or protective hairstyles, specifically in reference to their representation in uniform, behaviour or standalone appearance policies. The guidance aims to provide a package of resources to help schools build an inclusive environment and ensure that they are not making discriminatory policies (if they do choose to have rules on hair or hairstyles).

Indirect discrimination can happen when a school applies an apparently neutral policy or practice that puts pupils sharing a protected characteristic (for example, race) at a disadvantage compared with pupils who do not share that characteristic. Uniform and appearance policies that ban certain hairstyles, without the possibilities for exceptions to be made on racial, sex or religious grounds, are likely to be unlawful.

## Setting up a trading subsidiary – a guide for academy trusts

We're pleased to collaborate with Lloyds Bank, who recently asked us and audit and risk specialists Crowe UK, to offer guidance that academy trusts would find helpful when considering setting up a trading subsidiary.

An increasing number of trusts are either using or exploring establishing a trading subsidiary – typically a company with share capital they own and control – as a means to manage risk or to generate income.

Whilst there can be clear benefits for trusts doing this, there are also costs and key considerations, which we explore in the guidance.

## Hosting virtual annual general meetings

We have prepared guidance to support academy trusts who want to hold a fully virtual Annual General Meeting (AGM) or a hybrid AGM, as we know that Trusts may want to be prepared for future disruption as well as having a general interest in holding more meetings virtually. The guidance also applies to other meetings of the Members (known as General Meetings).

## Good governance essential to avoid falling foul of the ESFA

The prospect of academisation means that for some schools, it's time to take stock and prepare for the future.

Issues such as procurement, recruitment, the need for robust governance and independent scrutiny, as well as transparency and information management, have been recurring features of financial management and governance reviews instigated by the Education Skills Funding Agency (ESFA) in recent years.

Without a strategic plan to cover the main areas of the school's business, both from a financial management and governance perspective, the prospect of converting to an academy trust may appear daunting. Scrutiny from the ESFA can put huge strain on an organisation's leaders, so we set out some of the key considerations and pitfalls to avoid.

## Support and resources

### Top three training topics 2022-23

As well as providing day-to-day support to help you focus on managing your settings, we also provide training and professional development on a range of topics to keep you and your staff up-to-date.

Here are the three most popular topics and courses this academic year.

#### 1. **Data Protection**

Our Foundation, Intermediate and Advanced courses for Data Protection Officers (DPOs) in schools and trusts empower staff in the DPO role to drive data protection compliance, regardless of their current level of expertise.

#### 2. **Safeguarding**

With KCSiE 2022 guidance setting out changes to the expectation for Board Training and Safer Recruitment, these and the other training packages we offer such as Safeguarding for Lead Governors are in high demand. There have been 72 trust designated safeguarding leads and directors of safeguarding attending our Trust DSL course already this year, so we're adding another cohort, beginning in March 2023.

#### 3. **Exclusions**

With new statutory exclusions guidance coming into force, lots of schools and trusts have attended our Exclusions Training for senior leadership teams and boards to get themselves up to date.

While these courses are now fully booked for 2022, we're opening additional cohorts for the new year, so be sure to request early to avoid missing out.

### Trust Capacity Funding now available

The Department for Education (DfE) has published new guidance and opened the application process for window two of the Trust Capacity Fund (TCaF) for 2022-23, with a fund of £86m in trust capacity funding focused particularly on education investment areas.

Activities must be focused on strengthening trusts' central capacity and not on improving individual schools. You can use the fund for things such as HR advice and training and developing staff to build permanent capacity for growth. The application window runs from 20 October to 16 December 2022.

### Recruiting school staff on a budget – top tips

Unless there is drastic change to funding for schools in relation to pay increases, it will be unusual to find any organisational budget that is not impacted by the current economic situation. Yet we know some large school trusts spend in excess of £500,000 per annum on recruitment advertising, and the sector as a whole spends in excess of £75m.

It's more important than ever to find novel ways to achieve the best recruitment with the lowest cost.

We provide a selection of tips to recruiting on a budget and consider the benefit of the Teaching Vacancies service, a free service provided by the DfE for schools and academy trusts to connect with over 350,000 jobseekers a month.

## You may also be interested in...

### Education team win sixth Education Investor Award

Browne Jacobson's education team were named winners of the 'Legal Advisors to Education Institutions' category at the Education Investor Awards 2022 for a record sixth time. The awards celebrate commercial successes in the business of education, recognising those that have made an outstanding contribution to the industry in the preceding year.

We were judged the winner by a panel of high-profile independent industry experts, who praised the firm's "depth and breadth of sector experience across the board" and our positive impact, saying that we're "changing the dialogue in policy issues impacting the education sector in so many ways".

Mark Blois, National Head of Education at Browne Jacobson, said:

"It's a huge honour for the firm and its education team to be awarded this accolade for the sixth time. This year's award re-affirms our status as a genuine powerhouse in the sector and over the years these awards have provided ongoing recognition both of the exceptional service we always strive to deliver for our education sector clients."

### Browne Jacobson retain ranking as UK's leading social mobility employer

We're proud to have retained our ranking as the UK's leading employer in the Social Mobility Employer Index 2022, the leading authority on social mobility workplace best practice in the UK. In 2021 we were the first law firm in the history of the Index to top the rankings in 2021 and the Social Mobility Foundation has praised us in particular for our school outreach work.

Over the past 6 years we've launched a series of initiatives and partnerships to open up the legal profession for young people of all backgrounds, especially those from socially disadvantaged groups and regions across the country.

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## Our expertise

### Sectors

Academy trusts and schools

Education