

**Welcome to the first issue of our free termly newsletter for all education providers!**

Being involved in education means that every day is different, throwing us all new challenges, whether because of political or economic change or the people we come across. In these newsletters we'll be using our 25 years' experience of working with education providers to write about both the legal and practical issues that affect you, from nurseries to universities and examination bodies to teacher agencies.

If you have comments on any of our articles or would like to read about something in particular then our team would like to hear from you on [emily.brown@birkettlong.co.uk](mailto:emily.brown@birkettlong.co.uk). Don't forget you can check out our education blog at [www.birkettlong.co.uk/blog/category/education/](http://www.birkettlong.co.uk/blog/category/education/) for our comments on education news.

**Emily Brown, Solicitor**

**T 01206 217317**

**E [emily.brown@birkettlong.co.uk](mailto:emily.brown@birkettlong.co.uk)**

**Academies and the School Site**



An ever increasing number of schools are questioning whether or not to convert to academy status, if they have not converted already. Academy status is obtained by creating a charitable company, known as the Academy Trust (AT). This appoints the governing body for the school. The AT needs a right to occupy the school site and an adequate budget to maintain it.

Initially the site may belong to the school's governing body, the local authority or a third party. Some of the land could be public land (land which is now, or previously has been owned by the local authority or improved at public expense even though it has been owned privately). Schedule 14 of the

Education Bill enables the Secretary of State to insist that public land is made available for academies.

Restrictions are imposed on the AT's use of the land to make sure that what starts off as public land is used for the academy or returned to public ownership. If the school sits on private land, the school has the opportunity to negotiate the terms of the lease, but restrictions will still apply. It will depend on what type of school it is and whether the land is publicly or privately owned as to whether the land needs to be transferred or assigned (if it is leasehold) to the local authority before a lease is granted or the land is transferred.

Requirements to convert – the property issues to consider:

- A report on title has to be prepared and submitted to the Secretary of State for consent. If unregistered, the title deeds would need to be located and the title would need to be investigated to make sure that it is comprehensive; this can be particularly complicated if the school shares part of its site with another school or third party.
- If land is held by the governing body, a transfer must take place before conversion, because the governing body ceases to exist thereafter.
- Any necessary consent from the Secretary of State must be obtained prior to conversion.

Few schools have had the same site since they first opened, with many acquiring or selling the land throughout their existence. This has left many schools with a jigsaw of ownership, titles and rights over the site and those looking into whether to convert often fear that this will be the hurdle to converting to an academy. However, with a sensible approach, the property side of the conversion process is rarely fatal to its success.

For further information contact Emma Wright 01245 453839 or email [emma.wright@birkettlong.co.uk](mailto:emma.wright@birkettlong.co.uk)

## A word of warning - education providers



Birkett Long LLP would like to issue a word of warning to all education providers who currently hold a Sponsor Licence in order to offer courses to foreign national students. If, as a licensed sponsor, your licence is downgraded, revoked or withdrawn, this would have very serious consequences for your business.

Where the UK Border Agency is of the opinion that an education provider is not complying with its duties it can downgrade, revoke or withdraw a Sponsor Licence. If the licence is downgraded the "A" rated education provider would be downgraded to a "B" rating and, at an additional cost to them, they would then be given a time specific action plan to work to. This action plan would be designed to remedy any possible shortcomings the UK Border Agency might have identified in the way the education provider monitors its students or runs its Sponsor Licence. If a licence is withdrawn or revoked the education provider will be unable to continue to offer courses to foreign national students and those students will be forced to either leave the UK or find an alternative education provider if their visa or leave to remain in the UK is not curtailed.

At Birkett Long LLP we have encountered education providers that have had their licences suspended or downgraded unfairly following an unannounced visit by the UK Border Agency. A small inconsistency between your electronic and paper systems is enough for the UKBA to suspend your licence. This would obviously cost you

financially. We have had success, however, in challenging the suspension of sponsor licences.

If you have any queries please contact Miranda Leate on 01206 217356 or [miranda.lete@birkettlong.co.uk](mailto:miranda.lete@birkettlong.co.uk)

### Spot fines for truancy on the increase

**It is becoming more common for the cost of missing a day of school to be paid, not only by the child who clearly has to catch up on missed work or risk being left behind, but by their parents who can face a spot fine of £50 rising to £100 if unpaid within 28 days. The number of these fines, which can be issued by local authorities, head teachers or the police, have increased 27% from the school year 2009/2010, with 32,600 fines being issued in 2010/2011. There was also an increase in the number of parents being made subject to parenting contracts which can require parents to attend parenting courses or counselling to help ensure their children go to school.**

**With the number of spot fines for truancy increasing, it was also interesting to note that absence due to term time holidays has increased, accounting for 9.5% of all absences.**

### To friend, or not to friend

There has been a lot of focus in recent years on the development of bullying on new platforms - Facebook, emails and the like, are all being used to get to pupils. Whether it means the bullying is more anonymous, spiteful or intrusive, students subjected to such treatment by their peers now cannot even escape when they are in the safety of their home.

However, now teachers are also being targeted. 'Groups' are set up on social media sites abusing staff, and it can be difficult to obtain recourse against the pupils responsible through employment, discrimination or defamation law, leaving staff feeling vulnerable. Anti-bullying policies in school should

therefore cover the protection of staff as well as pupils.

Online campaigns are not the only dangers for staff though. Teachers should be warned not to accept 'friend' requests from students on social media sites. Boundaries between a teacher's professional and private life can become blurred when holiday photographs or negative status updates are posted for all to see. Not only are students checking up on their teachers' profiles, but parents have also begun to investigate the background of the people who are looking after their children. It is probably unnecessary to try to ban staff from keeping Facebook accounts, for example, but a sensible approach would involve not accepting invitations from pupils and checking your privacy settings to allow only 'friends' to see all that is posted.

### Statute Update

**Agency Workers Regulations 2010**  
Last October, new legislation came into effect that will give agency workers, such as supply teachers, the right to equal treatment. Some rights accrue automatically, for example information about job vacancies, whilst other rights will only accrue after a 12-week qualifying period and qualifying agency workers will become entitled to the same pay and working time protections (but not the same hours of work) as their permanent peers. These rights may well start to apply in surprising situations. For example, if an agency supply teacher is working before and after a school holiday the qualifying period would pause at the end of one term and start again at the beginning of the next, so long as the supply teacher returned to the same job with the same hirer.

For more details about how this might affect you or your educational institution contact Emily Brown on 01206 217317 or [emily.brown@birkettlong.co.uk](mailto:emily.brown@birkettlong.co.uk)

#### BIRKETT LONG LLP

PHOENIX HOUSE, CHRISTOPHER MARTIN ROAD  
BASILDON SS14 3EX  
T 01268 244144

NUMBER ONE, LEGG STREET  
CHELMSFORD CM1 1JS  
T 01245 453800

ESSEX HOUSE, 42 CROUCH STREET  
COLCHESTER CO3 3HH  
T 01206 217300

E [EDUCATIONLAW@BIRKETTLONG.CO.UK](mailto:EDUCATIONLAW@BIRKETTLONG.CO.UK)  
WWW.BIRKETTLONG.CO.UK

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