



Be Connected - Higher Education Autumn 2023

 27 October 2023  Bettina Rigg

Welcome to Be Connected, our quarterly update for higher education institutions.

We aim to provide content that offers you real value, together with relevant, useful information from our national team of legal and HR experts.

Be Connected is your space. Please help us to help you by providing your feedback and letting us know what you would like to see featured in a future edition.

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Legislation

Procurement Act 2023: Getting Ready for Reform

The procurement law landscape is changing and the transformation could be a significant shift for public bodies and suppliers. The Procurement Bill has now received Royal Assent, so the countdown to implementation has now begun.

Whilst it's important to understand the provisions of the Procurement Bill, there is so much more yet to come. Government guidance and secondary legislation is yet to be finalised, which will contain important information on the transition process and how some of the Bill's elements and wider regime will be brought into effect. Are you ready for reform?

Sign up for our free Procurement Reform webinar or visit our website for further information, advice and guidance.

[Read more](#) →

[Procurement webinar](#) →

New building control regime now in force

Five new regulations under the Building Safety Act 2022 came into force on 1 October 2023, bringing in a new building control regime for all buildings.

These regulations are important, since the new Building Safety Regulator now has extensive enforcement powers for non-compliance. This includes the levying of fines and requiring the alteration or removal of non-compliant work, with all work on site to be stopped until the non-compliance is resolved. A failure to comply with such a notice is a criminal offence and could result in imprisonment and an unlimited fine.

In this article, we break down what you need to know to ensure you're operating within the new regulations.

[Read more](#) →

Building safety and the new duty holder and competency regime

The new building control regime for all buildings in England came into force on 1 October 2023. In this article, we consider the new duty holder and competency regime which has been introduced by the Building Regulations etc. (Amendment) (England) Regulations 2023.

This new regime applies to all types of building, not just higher-risk buildings. Notably, it applies to those who procure building work and to any person carrying out or carrying out design in relation to building work, subject to some limited exceptions in relation to minor works.

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Case law

Students claim contract breach for university disruption

There is a lot of press around the ongoing case of *Hamon and another v University College London (UCL)*, which concerns breach of contract claims by nearly 1,000 current and former students arising from in-person tuition being disrupted due to COVID-19 and strike action. This is the first case of this kind to reach court.

In this article, we consider the precedents this case could set, the issues with large student group claims and compensation, as well as exploring how the court handled UCL's application to stay proceedings.

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Guidance

PFI expiry - hope for the best, plan for the worst?

There are hundreds of educational institutions across the UK operating under a Private Finance Initiative (PFI) with some higher and further education institutions among them. Over the next five to ten years, these arrangements will come to an end. Many PFI customers will warmly welcome this, and new-found freedoms to operate on the open market for the services they need. But is there a final sting in the tail?

The UK Government recommends that planning for PFI expiry starts seven years in advance. Even on the assumption that this is a slightly conservative estimate, customers should be looking in detail at a PFI exit strategy five+ years before planned expiry.

In this article we provide advice on what to consider if you're in a partnership involving PFI and the potential opportunities this could offer.

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Improving support for disabled students

TASO's recent 'What works to reduce equality gaps for disabled students' report advises that, whilst the last decade has seen significant growth in the disabled student population, disabled students remain underrepresented and are often less satisfied with their experiences.

As a result, disabled students are more likely to drop out of university and attain lower degree results and worse employment outcomes than their non-disabled peers.

Universities are understandably keen to redress this, with clear commitments to improving equality, diversity and inclusion and making reasonable adjustments where required. The Office for Students (OfS) is also launching a new Disability in Higher Education Advisory Panel this term.

But it's clear there is still some way to go. We consider the challenges, the available support, and how to mitigate risks and improve support for disabled students.

[Read more](#) →

What does RAAC mean for university campuses?

The Department for Education (DfE) has reported that, as of 16 October, there are 214 education settings where the presence of reinforced autoclaved aerated concrete (RAAC) was confirmed in their buildings.

Although this has largely been in the news because of its use in schools and the impact it has had, causing closures, the use of RAAC was not limited to use in schools, so all building owners and those responsible for maintaining them should be alive to these issues.

This article is intended to provide guidance on RAAC and the risks associated with it to higher education institutions' landowners and tenants.

[Read more](#) →

The season of goodwill: what education charities need to know

As we approach the 'season of giving' and many education providers and charities renew their fundraising and outreach activities, there are some important measures to consider if you are to ensure ongoing compliance with charities and fundraising laws.

This article looks at the benefits and due diligence required when fundraising with commercial participators, and new Charity Commission requirements for using social media for your fundraising activities.

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You may also be interested in...

In conversation with Dr Dame Ann Limb

In our latest edition of our #EdInfluence podcast, we hear from Dame Ann Limb, Pro-Chancellor of the University of Surrey, Chair of the City and Guilds of London Institute, and inaugural Chair of the Lifelong Education Institute.

Ann describes herself as 'a philanthropist, mover and Quaker, trying to navigate her way through life by doing least harm to people and planet'.

Hosted by education lawyer and accredited executive coach Nick MacKenzie, the podcast explores the human side of leadership with a diverse range of leaders from different sectors and is available on all the usual [podcast channels](#).

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Join us for our 'Copyright issues with AI' webinar

AI productivity revolution or inferno of infringement? Join us for a review of the intellectual property landscape in the UK.

We will be discussing:

- Do IP rights subsist in AI generated works?
- Do AI generated works infringe third party IP?
- Will training AI on third party materials infringe IP?

[Register now](#) →

Browne Jacobson ranked leading specialists in latest directories

We're pleased to have been ranked a Top Tier law firm across 27 key practice areas for the first time in the Legal 500 UK 2024 results, and we've also been recognised in the Chambers and Partners (UK) Guide, achieving an impressive 38 rankings.

The latest editions of these independent directories highlight how we continue to develop our status as a leading law firm with highlights including:

- Ranked Legal 500 Firm to Watch in the North-West for Intellectual Property
- First time Chambers and Partners rankings for Competition Law and Education: Institutions (Higher & Further Education) — UK Wide
- First time Legal 500 rankings in London for Commercial Contracts, Media: Marketing, Media: Digital, Content and Social
- 43 'Leading Individuals' rankings, including our Head of Higher Education Bettina Rigg, and seven rankings in the Legal 500 Hall of Fame, including our National Head of Education Mark Blois, which recognises partners who are at the pinnacle of the profession.

Richard Medd, Managing Partner

Browne Jacobson

"We are incredibly proud of our rankings in this year's directories, which are our best yet."

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New Browne Jacobson office now open in Cardiff

We recently opened our first office in Wales, located in the civic centre of the capital, Cardiff. This move demonstrates real commitment to the Welsh market, having delivered legal advice to clients in Wales for over 25 years.

Situated in the traditional legal heart of the city the office is located close to longstanding clients, the Welsh Government and Natural Resources Wales, whilst it is also next to Cardiff University.

Tim Edds, Head of the Cardiff Office, and Laura Hughes, the firm's Executive Lead for Wales are the co-founding Partners of the office, with a team of seven other lawyers and a trainee solicitor working across government and corporate sectors, and specialise in public law, regeneration, risk and inquiries, planning, environment and construction.

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