

Be Connected (schools and academy trusts) - February 2024

14 February 2024

Mark Blois

Welcome to the first edition of 2024 for Be Connected — for schools, academies and trusts.

As always, this issue is packed with the latest legal updates, sector insights and support and guidance from our expert team.

Remember, Be Connected is your space, what would you like to see in future editions?

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

Legal and regulatory updates

What does the new gender questioning guidance mean for schools?

Just before Christmas, the Department for Education (DfE) published its long-awaited draft guidance on gender questioning pupils. When it is finalised, it will be non-statutory and aimed at all schools including independent schools, and further education providers, in England.

The guidance is framed around five key principles:

1. Schools have statutory safeguarding duties and need to promote the welfare of all children.
2. School and colleges should be respectful places and bullying is not to be tolerated.
3. Parents should not be excluded from decisions apart from in exceptionally rare circumstances.
4. Schools have legal duties around a child's biological sex.
5. There is no general duty to allow a child to socially transition.

Many of these, in the context of current legislation, are not going to be controversial because they link to existing pieces of guidance and/or legislation.

But nevertheless, this guidance is proving to be highly controversial and, given early reactions, it is quite possible that following publication, it could be subject to a formal challenge.

[Read more](#)

How do holiday pay reforms affect the education sector?

The Employment Rights (Amendment, Revocation and Transitional Provision) Regulations 2023 came into force on 1 January 2024.

The regulations were much anticipated following the judgment in *Harpur Trust v Brazel* in July 2022 where the Supreme Court, when considering the holiday entitlement and pay of a visiting music teacher, determined that all workers were entitled to 5.6 weeks statutory holiday per year, regardless of how much work they performed.

In this guide we consider the new regulations and Government guidance, explaining the main changes schools and trusts should be aware of and what steps they should be taking as a result, in readiness for holiday years starting on or after 1 April 2024.

[Read more](#)

Ofsted reform: Where are we now and where do we go from here?

In 2023 the conversation around Ofsted reform undoubtedly accelerated. Towards the end of last year, we published the results of our School Leaders Survey which indicated that the majority of leaders still sought meaningful change.

We expected further developments in 2024 and the first month of the calendar year certainly delivered on that front. In this article, we summarise the recent developments and highlight what we can expect next.

[Read more](#)

Case law

New case on the reasonable adjustment duty for pupils in schools

In December, the Upper Tribunal, on an appeal we made on behalf of a school, considered the reasonable adjustment duty for schools under the Equality Act 2010 and specifically the amendments for schools. These amendments had not been considered in any detail by the courts, but in this case, the Upper Tribunal explicitly considered these amendments.

The case related to a special school and a pupil, whose parent had brought a claim for discrimination. The First Tier-Tribunal found that one claim relating to a lack of a documented transition plan to the school was found to amount to discrimination. In this article we provide further insight, consider the errors made and explain what this tribunal's judgement means in practice.

[Read more](#)

Guidance

Navigating parental complaints in turbulent times

In the current climate, complaints from parents seem inevitable. The NGA Annual Governance Survey 2023 stated: "At the heart of complaints in all cases is the parents' frustration with the systems they have had to navigate".

There are numerous policies and procedures that schools are required to comply with, and parents may not always be aware of these. Schools need to be prepared to deal with parents who may have unmet expectations (realistic or otherwise), or who feel a sense of injustice, or who just feel that they need to escalate matters for their issue to be resolved.

In this article we consider the common issues and offer guidance on what you can do to manage parents' expectations and support your staff to handle the challenges.

[Read more](#)

Proactive handling of vexatious complaints and abuse of staff in schools

Amid growing concerns about rising parental complaints of an increasingly vexatious nature, we consider how school leaders can de-escalate issues.

Perhaps sparked by a post-Covid shift in public attitudes identified by the Home-School Support and others, parental complaints are on the rise. Coinciding with this, there is growing evidence of greater abuse of staff, which has led to one trust establishing its own code of conduct for parents, and some sector leaders to call for an NHS-style zero-tolerance campaign.

If this spike in complaints reflects cultural change, as many in the industry suspect, then it's time for schools to be proactive in their complaints handling processes.

[Read more](#)

Converting to academy status

If you're considering converting to academy status in 2024, there are many things to think about. As with any legal changeover, there are complexities that could arise.

Having successfully handled over 2,000 academy conversions, our experienced team are well-equipped to make the transition from school to academy status as smooth, simple and straightforward as possible.

We're sharing our expertise in a series of short videos which cover each step of the process, handling frequently asked questions, providing top tips and supporting resources to help you make an informed decision to get the best outcome for your school.

[Read more](#)

Employment and HR

Employment law in 2024: How changes impact education

We look ahead to the range of new legislative changes coming into force this year, including the introduction and extension of a number of family-friendly rights in the workplace. In the main, these changes take effect from 6 April 2024.

Schools, trusts and other employers in the sector should consider and prepare for these forthcoming changes when reviewing their policies and procedures.

[Read more](#)

Backpay for leavers: Employers risk unlawful deduction from wages claims

The National Joint Council (NJC) has agreed that employers are legally required to provide retrospective backpay to those who left employment after 1 April 2023.

This means that where an employer who has adopted the Green Book fails to provide backpay to a leaver who has requested it under a retrospective NJC pay increase or where the employer has historically automatically paid it to leavers, employers risk unlawful deduction from wages claims being brought against them.

In this article we explain what this means for employers, provide insight from the employment tribunal that led to the change and recommend what academy trusts should do now.

[Read more](#)

School staff pay – how are academies responding to national recommendations?

We recently published the findings of our annual Teacher Pay Survey, which for the first time, now encompasses support staff pay.

This is our third year of capturing and understanding what trusts intend to do in relation to national decisions on staff pay. Over 100 trust leaders responded, providing representation from all regions of the country and providing a strong dataset to provide valuable insight.

[Read more](#)

Learning, development and insight

New safeguarding training for trust directors

For 2024 we've introduced a new CPD programme for Directors of Safeguarding (and equivalent) in trusts, which follows on from our popular 'Safeguarding excellence in trusts' course.

This interactive programme is delivered over four months and equips delegates with everything they need to continue developing excellence in trust safeguarding governance. It also provides the opportunity to consider new ways of driving change in your trust.

[Read more](#)

Demystifying holiday pay – training and toolkit

New legislation on holiday entitlement and holiday pay came into force on 1 January 2024 and brings significant changes which have the potential to generate a lot of extra work for you and your team.

We've developed training and a toolkit of resources to help you prepare for holiday years starting on or after 1 April 2024.

Demystifying holiday pay training course

This interactive online course is designed for school leaders and their HR advisers and tackles the particular issues affecting the education sector.

[Read more](#)

Holiday pay toolkit

This comprehensive pack contains a range of resources, including detailed guidance, a statutory holiday decision tree, calculator and template letters.

[Read more](#)

#EdInfluence: In conversation with influential leaders

Our podcast is going from strength-to-strength with some extraordinarily personal insights from some very special guests. Hosted by education lawyer and executive coach Nick MacKenzie exploring the human side of leadership with MAT CEOs including:

- **John Murphy**, Oasis Community Learning.
- **Rebecca Boomer-Clark**, Academies Enterprise Trust.
- **Dawn Haywood**, Windsor Academy Trust.

And coming next month we hear from Professor Edward Peck CBE, Vice-Chancellor and President of Nottingham Trent University.

You can access the podcast and subscribe via your [preferred podcast channel](#).

[Listen now](#)

#EdCon2024 – the power of people

EdCon2024, our annual virtual conference has now closed but was our biggest and most popular online event yet! Well over 1,300 delegates accessed the conference this year, benefitting from free resources and sessions covering a range of topics, such as:

- Workshops on managing staff sickness, safeguarding and exclusions.
- Live Q&A on using AI to streamline school workload and processes.
- A live panel discussion on Ofsted reform, featuring guests from CST, NAHT and the NGA.
- Top tips on de-escalating complaints, SEN admissions, TUPE, teachers' pay and much, much more.

We hope you enjoyed the event and found these insights valuable. Content is exclusive to EdCon so available only while the conference is live, but we'd love to hear from you on what you'd like to see at EdCon2025.

[What do you want from EdCon2025](#)

Key contact

Mark Blois
Partner

mark.blois@brownejacobson.com

+44 (0)115 976 6087