

# How academy trusts can avoid disputes over recruitment agency fees

08 April 2025  Matthew Hopkins

The education sector continues to grapple with the challenge of increasing recruitment demand. Staff vacancies at multi-academy trusts (MATs) are at an all-time high, with teacher and support staff retention rates continuing to decline year on year.

Despite the availability of free advertising platforms like the DfE jobs board, up to two-thirds of MATs continue to pay for job advertisements and recruitment services due to difficulties with attracting talent within a challenging market.

## A growing need

The financial pressures caused by this growing recruitment need are currently being exacerbated by high levels of teacher sickness across the sector, which remains above 65% across MATs in the UK. The [World Economic Forum has estimated](#) that the need for secondary school teachers is likely to continue to grow over the next five years, resulting in recruitment becoming a key focus for many MATs.

As MATs strive to balance budgets – a key priority for 83% of trust leaders, with over 50% of MATs now having an in-year revenue deficit – there is a marked shift towards actively monitoring and minimising costs where possible, which has placed the topic of recruitment in the spotlight.

## Agency reliance

We have seen a noticeable trend in MATs becoming increasingly reliant on a wide variety of recruitment agencies to help combat this issue. Whilst agencies have not struggled to source candidates in what has been a challenging market, this increased reliance has resulted in regular disputes surrounding recruitment agencies fees, a trend we expect to continue over the next academic year.

In this article, we delve into the prevalent issues surrounding recruitment agency fee disputes and offer expert guidance on implementing effective strategies to mitigate these conflicts, aiming to equip MATs with the knowledge and tools to avoid these disputes.

## Common agency fees

Agencies typically charge a fee for placing a candidate and many MATs are not aware of the circumstances in which they can become liable to agencies for further fees. These fees can range in value; however, due to the way in which they are typically calculated, these fees can place a substantial financial burden on MATs.

The terms and conditions for each recruitment agency will vary, however there are broadly four main categories of fees which can be charged (commonly referred to as 'transfer fees'):

- **Temp-to-perm fees:** where a temporary worker supplied by a recruitment agency either transfers or is subsequently taken on directly by a MAT.
- **Temp-to-temp fees:** where the worker is supplied to the same MAT by different recruitment agencies.
- **Temp-to-third party fees:** where a MAT introduces candidates to another school or MAT who subsequently takes on the candidate.

- **Introduction fees:** where a candidate is introduced to a MAT by a recruitment agency, the candidate is not taken on but is later taken on when introduced by a different recruitment agency.

Many candidates work with multiple recruitment agencies, together with being put forward by these agencies for several roles for different schools within the same MAT. As MATs are regarded as a single entity for contracting purposes, any contract which a recruitment agency has with any individual school within a MAT will be regarded as a contract with the MAT as a whole.

This is a common pitfall for many MATs, as we have noticed a considerable increase in fees becoming due when either the same candidate has been introduced by multiple agencies, or for roles with different schools within the same MAT.

Given the fast-moving nature of recruitment in the education sector, often these situations occur without those responsible for recruitment having the time and resource to cross reference candidates against any internal records, therefore staff members often have no knowledge of the potential liability for the MAT when making these recruitment decisions.

## Conduct of Employment Agencies and Employment Businesses Regulations 2003

The government introduced the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the 'Regulations') to restrict the circumstances in which recruitment agencies could charge fees to hirers, to prevent agencies from deterring those using their services from engaging candidates on a temporary or permanent basis.

Under the Regulations, any fee charged by a recruitment agency will be unenforceable if:

1. The event which gives rise to a fee becoming due occurs more than eight weeks after the end of the candidate's initial engagement.
2. The event occurs more than 14 weeks from the first day of the candidate's initial engagement.
3. The recruitment agency fails to give the hirer the option of an extended period of hire for that candidate through the recruitment agency, as an alternative to paying a fee.

We understand that many MATs may have paid fees alleged to be due by agencies, due to the pressure exerted and the threat of proceedings being issued. If you believe you may have paid fees which may not be in the compliance with the Regulations, you may have a claim against the agency to recoup the sums paid.

## Additional factors to consider

If a fee does fall within the Regulations, there are still a number of factors we can provide advice on and consider which could mean that the fee sought can be challenged. This will include consideration of:

1. Whether the terms and conditions were provided when the candidate was introduced.
2. Analysis of the agency's terms and conditions to determine whether they have been complied with.
3. Whether the fees sought are excessive and therefore a penalty, meaning they are potentially unenforceable.
4. When the same candidate has been introduced by two different agencies and engaged by a MAT, we will consider the 'effective cause' principle (i.e., which agency actually did the work which contributed to the engagement of the candidate).

## Top tips for MATs

We want to help MATs to minimise these disputes and avoid the risk of substantial fees. So, what can be done to help avoid these mistakes from occurring?

1. Review the terms and conditions for each agency you work with.
2. Keep records of correspondence with each agency for any specific roles being recruited for.
3. Actively monitor your relationships with each agency and overall spending on agency fees.
4. Consider limiting the amount of agencies used or entering into tailored service agreements with trusted agencies, to secure more favourable and reliable terms and minimise the risk of fee disputes. Building a transparent and stronger relationship with a handful of agencies can often be more cost effective and reduce the possibility of disputes arising.
5. Should a dispute arise, seek legal advice as soon as possible. As highlighted above, there are a variety of factors which can result in any fees sought being unenforceable. If you have the benefit of a Risk Protection Arrangement, your legal fees in dealing with a dispute may be covered under your policy.

6. Often recruitment agencies are willing to negotiate, as there is an awareness within the industry regarding the potential issues with many of their terms. MATs should therefore seek to engage in direct conversations with the agencies early on in any dispute in conjunction with legal advice.
7. We recommend that MATs keep and maintain a centralised record of all candidates introduced, to help monitor engagements at a trust wide level and avoid repeat engagements or the possibility of an introduction fee being incurred.

## Support and resources

From advising on recruitment agency disputes, reviewing terms and conditions to provide useful guides, defending potential claims or preparing a bespoke services agreement with an agency, we are here to help and guide you through this process. We've created this free [Recruitment Agency Tracker](#) to assist MATs with monitoring engagements through recruitment agencies.

At Browne Jacobson, we have a strong team of commercial litigators with a proven track record of resolving recruitment agency disputes. Please contact a member of our [dispute resolution](#) team to learn more about the services we can offer.

## Contact



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