

Ward Hadaway – Lawyers for Education

Insight: Education

Your monthly education sector news roundup

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Welcome

Welcome to the November edition of our new monthly newsletter for those in the education sector. We hope you will find this a useful summary of latest developments in schools, further and higher education and the training and apprenticeships arena. If you have any comments on the format or want more detail about a particular subject, please do not hesitate to contact any of us.

Meet the Education Team

As the evolving educational landscape continues to open up new opportunities and present challenges, you need to be confident that you are getting the right legal advice, at the right time and, of course, at the right price. Ward Hadaway's Education Team is recognised as a leading national player. Our friendly, commercial and pragmatic approach allows you to be reassured that you are in safe hands.

Whether you are a maintained school, academy, multi academy trust, free school, studio school or UTC, our team have an in-depth, up-to-date knowledge of the sector, making us ideally placed to offer the best possible advice to all those involved in the delivery of educational excellence for pupils, students and their communities. [Click here](#) to read about how we can work with you.

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Government scraps Education for All Bill

An education "U-turn"

The purpose of the Bill was "to lay foundations for educational excellence in all schools, giving every child the best start in life".

On 27 October 2016, in a written ministerial [statement](#) to Parliament, Education Secretary Justine Greening signalled the abandonment of the 'Education for All' Bill. The explanation can be found in the following extract:

'Our ambition remains that all schools should benefit from the freedom and autonomy that academy status brings. Our focus, however, is on building capacity in the system and encouraging schools to convert voluntarily. No changes to legislation are required for these purposes and therefore we do not require wider education legislation in this session...'

What does this mean for academies?

The announcement confirms the revocation of forced academisation. Another neglected provision is that which required all schools in underperforming local authorities to become academies.

What does this mean for local authorities?

The bill's demise also sees an end to the schools standards plan under which local authorities would have lost their role in school improvement to Regional Schools Commissioners. With cuts of £600 million for local authority school services having already been budgeted for next year, local authorities face tackling these school improvement responsibilities with limited resources.

Where do grammar schools fit in?

Government support for grammar schools appears to remain. The Education Secretary stressed that the ongoing 'Schools that Work for Everyone' consultation asks "how we can create more great school places in more parts of the country – including selective schools for local areas that want them".

Sector response

"Councils have been clear from the outset that the proposals within the Bill focussed too heavily on structures...We urge government to reverse plans to cut £600 million from the Education Services Grant..."

RICHARD WATTS, CHAIR
LOCAL GOVERNMENT ASSOCIATION'S CHILDREN
AND YOUNG PEOPLE BOARD

"This...reflects the lack of evidence that academies guarantee children a better education or improve education outcomes..."

We hope this also means that the Government has abandoned its damaging plans to abolish qualified teacher status...and that ministers will pay heed to the overwhelming evidence that grammars do not improve social mobility."

ADRIAN PRANDLE, DIRECTOR
ASSOCIATION OF TEACHERS AND LECTURERS

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The Technical and Further Education Bill

Greening's statement also announced the introduction of the [Technical and Further Education Bill](#), which "takes forward the Government's ambition to streamline technical education to ensure clear routes into skilled employment."

The Bill follows on from the Government's post-16 skills plan, which was developed in response to an independent report from an expert panel chaired by Lord Sainsbury. Its proposals include:

- » Extending the role of the Institute for Apprenticeships to cover technical education;
- » a new insolvency regime to protect the interests of students; and
- » new measures requiring colleges and local authorities to continue to share information such as data on results.

Sector response

"It is vital that the role of the Institute for Apprenticeships is clarified further..."

The apprenticeship standards that have been approved so far have caused concern in the sector because, in some cases, the award does not contain a vocational qualification...this Bill presents the opportunity to ensure that these concerns are addressed,"

**JILL STOKOE, EDUCATION POLICY ADVISOR
ASSOCIATION OF TEACHERS AND LECTURERS**

"People with learning difficulties and disabilities, and people from BME backgrounds have been famously underrepresented in apprenticeships for a number of years. There should be amendments to the Bill that enshrine the developed recommendations of the Maynard Review on apprenticeship accessibility."

**SHANE CHOWEN, HEAD OF POLICY AND PUBLIC AFFAIRS
LEARNING AND WORK INSTITUTE**

Lessons learned from the Durand Academy Trust

Notice of intention to terminate

On 11 October 2016, the Education Funding Agency (EFA) issued Durand Academy Trust (DAT) with a [notice of intention to terminate the Trust's funding agreement](#). The letter alleges that there has been "repeated and significant breaches of the terms of the funding agreement". It follows a provisional notice of termination issued to the Trust on 4 July 2016. This set out a number of requirements which had to be met in order for the Trust to address the EFA's concerns. According to the EFA, the Trust failed to comply with six out of the eight requirements.

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What went wrong?

At the heart of the controversy surrounding DAT are the complex financial structures created around it:

- » DAT was established in 2010 by Sir Greg Martin, who is the current chair of the Trust's board of governors.
- » A charitable trust was set up to hold land and property used by the academy and to provide financial support to DAT.
- » A private leisure centre rents property from the school.
- » Two private management companies GMG and LHL provide services to the school.
- » One of these companies, GMG, was contracted to provide services to the leisure centre in an agreement that lacked any clear procurement process.
- » As a result of the above arrangement, Sir Greg was paid £160,000 as director of the leisure centre, on top of his £230,000 annual salary as Head.

The termination notice also attempts to oblige a £1.8 million repayment from the charitable trust to the school. The Department for Education (DfE) has called for Sir Greg to either resign or be removed as chair of governors. Sir Greg has insisted that the Trust has taken "very clear legal advice" regarding a conflict of interest between the separate parts of the Trust and has been advised that there is not.

Charity commission investigation

DAT was put under the spotlight in 2015 when the Charity Commission launched a statutory inquiry into the legality of the contract between GMG and the leisure centre. The investigation was launched after Sir Greg's appearance at a Public Accounts Committee last year when details of his earnings were uncovered. Sir Greg also faced questions about the registration of a dating service at the school address.

The [inquiry report](#) was published on 21 October 2016. The investigation concluded that the contract was "too generous". Sir Greg however has defended the contract, stating that it was approved by the Government and that it "enables millions of pounds in profit to be pumped back into the Trust". It also found that the trustees did "not fully discharge their duties and responsibilities as charity trustees, partly because they did not distinguish between the charity and other legally separate entities connected to Durand Academy".

Transparency of academy funding

The latest controversy has revived the debate regarding whether the DfE truly has control over the finances of academies. The EFA has stated that the Durand case is a complex one, representative of the 1% of the related party transactions in academy accounts about which they are concerned. The body considers that conflicts of interest in the system are "recognised and managed well". However, In April this year, the National Audit Office (NAO) gave its second warning regarding the level of "misstatement and

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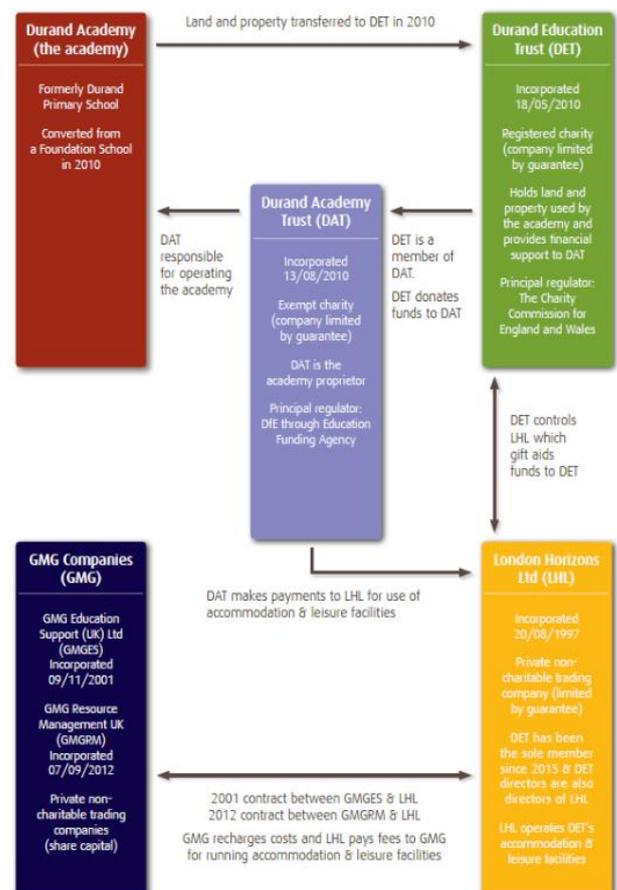


Diagram from the Charity Commission report: an overview of the organisations connected to Durand Academy

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uncertainty" which meant that the truth and fairness of the DfE's accounts could not be verified. The DfE responded by declaring that the accountability system for the academies programme is "robust and fit for purpose". Speaking before the Education Committee last month, Sir Amyas Morse, head of the NAO suggested, "Possibly the DfE needs a bit more power to extradite proceedings when they find something that's not right...the Durand Academy [case]...does seem to be going on for quite a long time, even given the circumstances..."

Announcement about Mentor MATs

The Westminster Education Forum held a conference on October 19th called "Next Steps for Reforming England's School System". The focus of the event was on multi academy trusts and one of our partners, Tim Care, spoke about the hurdles that schools face when becoming academies. The key-note speech was delivered by the National Schools Commissioner, Sir David Carter, and he took the opportunity to describe his own thoughts about the current landscape and the progress towards making all school academies.

In the Q&A session, in answer to a question about how he is challenging existing MATs to improve and help other schools improve, Sir David announced that he intends to introduce a principle which he is calling 'Mentor MATs'. These may not necessarily be just the largest MATs, but will be trusts across the country which have been successful, have built their capacity, secured good governance and leadership and improved their schools.

He wants those selected MATs to provide a mentoring relationship for probably 2 or 3 years to enable new MATs to go through the health-check process and focus upon school improvement.



Tim Care speaking at the Westminster Education Forum, 19th October 2016

Upcoming events

Delivering quality outcomes in multi academy trusts

Monday 5th December 2016, 6.00pm – 8.00pm, Ward Hadaway's Newcastle office

Our free panel event for Chairs, CEOs, Executive Principals, Head Teachers and Accounting Officers at multi and single academy trusts and schools considering conversion, will look at the advantages MATs can exploit, the benefits and drawbacks of growth and consolidation, the focus on career guidance in schools to help reduce the perceived skills gap, and the introduction of greater powers of pupil selection. Our panel includes Sir Peter Vardy and John Cridland.

For more information, and to book your place, please [click here](#).

SSAT National Conference 2016

Thursday 1st December – Friday 2nd December 2016

An opportunity to hear from and be challenged by international speakers and system leaders, and choose from over 40 workshops including policy updates, inspiring leadership and school-led sessions. There will be opportunity to network with peers and at a drinks receptions and an optional conference dinner with guest speaker Lord Holmes of Richmond (Christ Holmes). For further information, please [click here](#).

Need to know – your policy and guidance quick read

Guidance: Free school pre-opening guide *(updated)*

The DfE has updated the guidance for free school pre-opening proposer groups who were part of the wave 11 application process, receiving approval in September 2016. For more information please [click here](#).

Guidance: Qualifications reform: resources for teachers *(updated)*

Ofqual and the DfE have updated the information slides which can be used by teachers to explain qualifications reform to parents. The updated pack clarifies AS level languages in 2018. For more information please [click here](#).

Guidance: Convert to an academy: guide for sixth-form colleges *(updated)*

The DfE has updated the guidance for sixth-form colleges considering becoming a 16 to 19 academy. The revised document sets out in more detail the criteria and process for making an application. It also includes updated practical and operational information and advice which colleges need in order to judge whether the conversion is the right option in their individual circumstances. For more information please [click here](#).

Guidance: Further education area reviews – guidance on restructuring

An 'implementation guidance' document has been produced by the DfE for use by colleges undergoing a restructure following area review recommendations. It gives an outline of the processes involved and provides links to further guidance where necessary. For further information, please [click here](#).

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Events & quick read

Consultation outcome: Developing an insolvency regime for the further education and sixth-form sector

The Government has published its response to the consultation which sought comments on the proposals to introduce insolvency procedures for further education and sixth form colleges in line with those given to companies under the Insolvency Act 1986, including administration and liquidation. For more information please [click here](#).

Consultation outcome: 30-hour free childcare entitlement

The DfE has summarised the responses it received to its consultation on how extended entitlement to free childcare should be provided. The DfE outlines the next steps, which include parliamentary debates, minor amendments and informal consultation with local authorities. For more information please [click here](#).
