

Ward Hadaway – Lawyers for Education

## Insight: Education

# Your monthly education sector news roundup

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# Insight: Education

*Round up*

## Welcome

Welcome to the November edition of our monthly newsletter for those working 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](#).

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## Regulator postpones academy land valuations

The Education Skills and Funding Agency (ESFA) has updated its Academies Land and Buildings Valuation guidance to reflect changes to the annual valuations timetable. In doing so, the ESFA explained that because valuations for academies opened between September 2016 and August 2017 are being completed as at 31 August this year, as opposed to 31 March in previous years; reports will not be complete and available until January.

### Why is this important?

Currently the ESFA commissions suitably qualified professionals to carry out academy land valuations free of charge given that it is a legal requirement that such findings must be included in a trust's annual accounts.

However, the delay until January means that the required information, as reported by the ESFA commissioned inspectors, will not be available in time for the 31 December deadline by which time the accounts must be filed with the regulator.

Consequently, the delay could result in affected academies being forced to commission alternative valuations at their own cost and expense.

### Commentary

Stressing the potential detriment of the announcement, one senior academy representative commented:

"New academies, unless they have a valuation already, might have been banking on the ESFA's valuation in time to include in their annual report and financial statements... The lateness of the announcement has caused most of the disruption, as it is happening just when trust audit season is in full swing".

However, contrary to this a spokesperson from the Department for Education defended the delay emphasising that the valuation reports currently provided by the ESFA should only be regarded as a "reference tool to help the sector" and should not be used to "supplement the accounts of individual trusts".

### What can you do?

It is important to remember that not all academies will be directly affected by the announcement. However, those who are, or believe that they may be, should ensure that they have adequate time and funding set aside to take any required steps.

Furthermore, all academies should remain diligent going forwards to ensure that they have back up provisions in place to provide an option in the event of any future unexpected change.

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# Insight: Education

Round up

## Multi Academy Trusts could fall under the remit of competition law

Of the multitude of regulatory matters affecting Multi Academy Trusts (MATs), one often overlooked issue is that of competition law – legislation which MATs risk falling foul of if they are found guilty of undertaking anti-competitive conduct. Consequently, it is important that governing bodies continue to ensure that this is not the case given the potentially severe ramifications.

### What is competition law?

Competition law is the law seeking to maintain adequate competition on a market by refusing to allow dominant parties from abusing their positions to the detriment of other market competitors and market users.

In relation to MATs, this means that the competition regulator (the Competition and Markets Authority) could potentially investigate situations where one MAT operates the majority of schools in an area – meaning that students have little or no choice to attend schools governed by other MATs.

### When would a school be likely to fall foul of competition law?

Summarising her views on the matter, Mary Bousted, the joint general secretary of the National Education Union explained that a breach would be likely to occur:

"When schools run by the same trust then adopt the same curriculum model, the same teaching and learning approach, the same behavioural management policy – some of which are contested both in the public sphere and also by parents – if you're not in tune with that then actually you have very little choice, if any".

The issue is all the more prevalent in the education sector due to it being common practice for MATs to operate a number of schools in the same area where "staff share resources, best practice, and expertise, while also receiving training together".

### What can you do?

One of the fundamental principles of competition law is that it is not an offence in itself to hold a dominant position on a particular market. Consequently, MATs should be comforted to know that the mere fact that they operate various schools in a particular area will not mean that they are guilty of breaching competition law.

Instead, breaches will only occur following instances of anti-competitive behaviour. Consequently, there are a number of recommended practices which should minimise the likelihood of competition related complaints being made against MATs:

- » Avoid exclusive contracts: - MATs should look to ensure that they do not enter into long-term exclusive contracts with parties which would have a detrimental effect on other competing MATs.
- » Consider operating under different policies: - MATs should consider implementing slightly different policies across each of their schools to allow students a greater degree of choice.

# Insight: Education

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## Department for Education outlines post-Brexit measures

The Secretary of State for Education, Justine Greening, has [outlined](#) a series of plans with the intention of placing "education at the heart of the Government's ambitions" post-Brexit. The plans which appear both wide-ranging and significant in nature are summarised below:

### Maintaining and improving the high standard of teaching staff throughout the UK

Central to the Government's announcement was that it intends to continue with the recruitment of a high standard of teacher who is capable of providing effective support to young people. In this regard, the Education Secretary set out a series of measures including:

- » Trialling a new student loan reimbursement programme for Modern Foreign Language and Science teachers in the early years of their careers. Consequently, it is hoped that this extra support will ease the financial burdens currently suffered by junior teaching staff – thus encouraging increased numbers to take up the profession.
- » Implementing "new style" bursaries. The Department for Education also referred to the possible implementation of "new style" bursaries in maths which would see substantial payments made to teachers in the early stages of their careers.
- » Regional directed funding. The Government explained that it would look to build on other initiatives such as the Northern Powerhouse agenda so that the balance would be restored to schools in previously underfunded areas.

### Reducing inequality and boosting opportunity

In order to achieve the desired outcome of reducing inequality in the education system, the Education Secretary specified that there will be:

- » £140m provided in the latest round of the Strategic School Improvement Fund to focus specifically on boosting literacy and numeracy skills.
- » A £5m investment to trial "evidence-based home learning environment" support programmes; and
- » Plans aimed at ensuring that no pupils outside of mainstream education fall behind.

## Upcoming events

### **Your essential education update**

[Tuesday 21st November 2017, 8:30 am – 11:00 am, Ward Hadaway's Leeds Office](#)

This must attend free education law update will guide you through the often complex legal issues that you face on a day-to-day basis in simple and commercial terms, giving you practical tips that you can take back and apply to your school. Topics covered include: Safeguarding; Local Government Pension Schemes; Managing sickness absence in your schools; and personal data – understanding the operational risks in the school system.

### **Procurement Law update**

[Thursday 30th November 2017, 1.00 pm – 4:30 pm, London](#)

This session will provide you with a unique opportunity to hear first-hand from leading procurement experts who will share their thoughts on the most topical issues of the moment, as well as reviewing the new regulations one year on from introduction.

# Insight: Education

Quick read

## Need to know – your policy and guidance quick read

### Policy paper: Social mobility and opportunity areas

The Department for Education has published delivery plans for the first six opportunity areas, outlining how it plans to build young people's knowledge and skills and provide them with the best advice and opportunities.

### "Thirty-two academy leaders elected to help schools thrive"

The Department for Education has announced the names of 32 academy leaders who have been elected to help shape the future of schools in their local areas. They will each join one of the eight regional Head teacher Boards across England and will provide support to the Regional School Commissioners in those areas to provide effective oversight of local schools.

### Guidance: Storing and disposing of hazardous chemicals in schools

Guidance has been issued to school leaders, staff and governing bodies in all forms of educational establishment to assist with the handling and disposal of hazardous substances and materials.

### "New route into classrooms for aspiring teachers"

The Department for Education has released details of a new postgraduate teaching apprenticeship which is to be offered as an alternative route into the profession. The apprenticeship, which launches in September 2018, will mirror the entry criteria and course content currently required of all other training schemes and will provide schools with the opportunity to train new teachers in-house.

# Insight: Education

*Meet the team*

## 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.

### Your key contacts



**Tim Care**  
Partner | Public Sector & Academies  
E: [tim.care@wardhadaway.com](mailto:tim.care@wardhadaway.com)  
T: 0191 204 4224



**Frank Suttie**  
Partner | Commercial  
E: [frank.suttie@wardhadaway.com](mailto:frank.suttie@wardhadaway.com)  
T: 0113 205 6783



**Paul Scope**  
Partner | Employment  
E: [paul.scope@wardhadaway.com](mailto:paul.scope@wardhadaway.com)  
T: 0191 204 4352



**Fiona Wharton**  
Partner | Head of Charities  
E: [fiona.wharton@wardhadaway.com](mailto:fiona.wharton@wardhadaway.com)  
T: 0191 204 4219



**Alex Shiel**  
Partner | Head of IP/IT  
E: [alex.shiel@wardhadaway.com](mailto:alex.shiel@wardhadaway.com)  
T: 0191 204 4296



**Graham Vials**  
Partner | Employment  
E: [graham.vials@wardhadaway.com](mailto:graham.vials@wardhadaway.com)  
T: 0191 204 4383