

Top of the class

Our dedicated Further Education team



The Eversheds Sutherland Education Team is ranked as Band 1 in both the Legal 500 and Chambers and Partners directories. Members of our team regularly work with over 200 further education clients, as well as influential sector bodies such as the Association of Colleges, the 157 Group, and various regional FE associations. All of our lawyers take a proactive and commercial approach to their work based on risk management principles. We are always mindful of the need to secure outcomes which preserve the reputation of an educational institution and the fact that institutions are subject to high levels of public scrutiny by their many stakeholders. We see it as part of our function to assist clients to learn from the experiences that we share together, building confidence and reducing dependence on external support.

Eversheds Sutherland also provides sector clients with access to a unique governance service which is subscribed to by hundreds of colleges nationally and it widely regarded as the definitive guide to college governance. Subscribers receive a copy to our annotated version of the Instrument and Articles of Government (now in its 19th edition) and access to a dedicated governance helpline run by our governance team. Our work on college governance nationally means that we are able to share and develop best practice with our clients.

Some recent examples of our work in the FE section include:

- ✓
 advising colleges on all aspects of mergers and collaboration, including legal due diligence, the transfer of all property, rights and liabilities to the surviving college and dissolution of the outgoing college
- ✓
 assisting corporations with the management of senior postholder conduct/capability/ grievance issues, including advising on Special Committee processes and negotiating exit packages that comply with a college's Conditions of Funding Agreement
- ✓
 advising colleges in responding to complex whistleblowing issues/allegation of misuse of public funds/high profile discrimination claims/safeguarding issues
- ✓
 assisting colleges to manage their relationships with regulators, e.g. Ofsted, ESFA, Commissioner's office
- ✓
 advising on significant college restructuring and outsourcing projects including collective consultation, TUPE and industrial relations
- ✓
 providing legal and strategic advice to colleges in respect of sensitive student-related matters, e.g. allegations of sexual assault
- ✓
 advising colleges on applications to establish an Institute of Technology with higher education partners and various partners from industry
- ✓
 advising colleges on all aspects of their obligations under the Teachers' and Local Government Pension Schemes as well as options for the provision of access to alternative schemes
- ✓
 assisting corporations with managing media and social media matters
- ✓
 advising corporations and senior management teams on the impact of the FE insolvency regime
- ✓
 advising on all aspects of delivery contracting, including subcontracting and contracts with employers of apprentices

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Legal services for the further education sector

We can provide you with a one stop shop for all of your legal needs including:



Governance and regulation

We are the leading experts on FE governance. We advise on all relevant issues including the Instrument and Articles, statutory responsibility, powers, delegation, codes of conduct and ethics, public interest disclosure and accountability. On a daily basis we advise clerks on collaboration arrangements, regulatory compliance, relationships with funding bodies/commissioners, charity law, conflicts of interest, senior postholders, the conduct of corporation meetings, boardroom disputes and constitutional amendments.



Intellectual property

We advise colleges on all aspects of intellectual property, from IP strategy and protection, through to commercialisation and, where required, enforcement litigation. Our experience includes working with institutions on the exploitation, assignment and licensing of intellectual property and advising on the commercialisation options available and negotiating and drafting commercialisation contracts.



Charity law

We regularly advise institutions on issues around permanent endowments, power to pay trustees, disposal of land and trading activities. Our experience includes acting for institutions in relation to setting up charitable trusts and dealing with charitable registration. We also advise on exempt charity law issues arising from mergers and collaborations, including liaising with the Charity Commission on approvals and orders to allow institutions to complete complex financial and other transactions.



Property

Our education estates team supports clients with all aspects of managing their property portfolios, from day-to-day operation and asset management, through to major development and funding. Our relevant experience includes the acquisition, disposal and development of land; health and safety and environment law; building contracts; tax; resolution of disputes and advice on lease and leaseback arrangements.



Commercial

We have a national team of commercial contract lawyers who provide advice to education clients in respect of all of their contracting needs, from supply contracts, IT contracts, franchise and sub-contracting arrangements to the more specialised education contracts such as apprenticeships. We also have a highly regarded procurement team with experience of advising on all aspects of procurement, such as reviewing and drafting prequalification and tender documentation.

We regularly advise colleges on the creation of subsidiaries and their relationship with the parent institution and on all aspects of their collaborative activities. We offer advice which is both pragmatic and proactive, bringing to the table ideas that have worked well in the sector and, conversely, flagging up issues that we know are difficult ones.



Employment and HR

We advise institutions on all aspects of their recruitment policies and practices, ensuring they embrace equality duties and meet regulatory requirements. We advise and guide institutions on the strategic direction and management of complex disputes such as suspension, discipline, grievance, whistleblowing and bullying and harassment. As well as advising on day-to-day management of diversity and discrimination issues in the workplace, we support institutions with complex issues, e.g. gender pay gap reporting and equal pay.

We have extensive experience of advising on the management of dismissal processes for capability and conduct reasons and following organisational change. We regularly negotiating severance arrangements ensuring that they comply with the Conditions of Funding Agreement. We advise on all issues arising from the TUPE regulations, including outsourcing, insourcing and mergers. We defending colleges facing employment tribunal claims as well as in the employment appeal tribunal and civil courts.

Our employment consultants are able to assist with complex reorganisations and regularly undertake sensitive investigations where externality is appropriate. Our training assists managers to own their decisions and to manage difficult staffing issues with confidence.

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Pensions

We are one of the only law firms in the UK that has a dedicated education sector pensions practice advising on pension issues relating to the FE sector, including the LGPS and TPS, and the scope for introducing alternative pension schemes.



Students

Our student team advises on a range of issues including complaints (for example, to the OIA) and claims (including for breach of contract, discrimination and judicial review), academic appeals, conduct and discipline, sexual violence and harassment, criminal convictions disclosure and risk assessment, and on the drafting and fair implementation of student regulations.



DBS and safeguarding

We understand the challenges which colleges face and the complex legal and regulatory issues involved in managing safeguarding issues. Our experience includes delivering training sessions to senior managers regarding the introduction of a new safeguarding procedure, the management of safeguarding concerns and obligations under the Prevent Duty. We also advise colleges on their duties to make a referral to the DBS following the dismissal of members of staff engaged in regulated activity.



Data protection/freedom of information

The introduction of the EU General Data Protection Regulation (GDPR) in 2018 has brought with it some of the most significant changes in almost 30 years in how the further education sector needs to process personal information (whether on staff, students or other individuals).

Our Privacy and Information team provide practical, legal and strategic advice on how to formulate compliant data protection policies and practices, as well as providing advice in the event of challenge or investigation. We have advised many colleges on implementing publication schemes, core policy documentation, information law governance, strategy and training on all these areas.

The team also regularly assist colleges with responding to onerous freedom of information requests and managing referrals by individuals to the Information Commissioner's Office.



Immigration

The alterations to the immigration regime post-Brexit have introduced fundamental changes to the recruitment and employment of non-British and Irish nationals. While the new rules have in some ways made it easier to employ such workers by reducing a number of the previous sponsorship requirements, at the same time the extension of the categories of staff that institutions need to sponsor to those EEA nationals who have not acquired settled status, has increased the number of staff for whom institutions will incur the cost of sponsorship and for whom they have compliance obligations. Similar issues apply to the student recruitment process.

Our specialist education immigration team regularly advise institutions on the key requirements of the Skilled Worker and Student routes and the sponsorship duties they must comply with.



Health and Safety

Our team regularly advises institutions on health and safety issues, including following serious accidents, near misses and the unexpected death of staff and students. This advice includes conducting legally privileged investigations into serious incidents, dealing with the regulator, providing institutions with legal representation at interviews under caution, managing trials, pleas and sentencing in the event of prosecution.

Our Health and Safety team has worked with our employment team in advising institutions where staff have been reluctant to return to campus post-lockdown.



Dispute resolution/reputation management

Our expert litigators provide first-class and robust action when it is called for, whether that be through litigation or alternative forms of dispute resolution such as mediation. We have extensive experience across the whole range of potential disputes, which include defamation and reputation management; personal injury and public liability claims; issues with funding and accreditation bodies; supplier relationships and procurement processes; fraud and other financial disputes; and negligence claims.



Contact our Further Education team

If you would like any further information or need advice related to further education, please contact our legal team:



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What our clients say about us

"Eversheds aligns the right people at the right level for the job at hand. They're also timely and proactive."

"The team is always very clear and concise in its advice."

"They are client-focused and solution-based."

"Responsive and experts in their fields."

'The customer facing approach provided by Eversheds; their speed of response; their obvious specialism and current knowledge of the further education sector.'

'Extremely knowledgeable. Well-resourced and therefore able to respond to requirements with alacrity. Feels like an extension of our organisation and that they are working to our best interests.'

'Eversheds Sutherland provide an excellent service to the Further Education Sector. Eversheds Sutherland are hugely knowledgeable in governance matters.'

What the legal directories say about us

"Possesses significant expertise in the education sector...Advises...FE colleges and sector associations. Steeped in all facets of governance and regulatory compliance, as well as the full spectrum of contentious matters."

- Chambers and Partners

Eversheds Sutherland (International) LLP acts as trusted adviser to numerous further education providers... With its broad local, national and international offering, it is able to cover employment work, charity law, litigation and dispute management issues, real estate matters, corporate and commercial issues, intellectual property work, health and safety mandates, constitutional issues and regulatory matters. Practice members also often advise the government and the main FE sector bodies on education regulations.

- Legal 500

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