



A high degree of knowledge

Our dedicated Higher Education team

The Eversheds Sutherland Education Team is ranked as Band 1 in both the Legal 500 and Chambers and Partners directories. Our lawyers are trusted to provide cutting edge commercial advice to the HE sector on the most complex and sensitive matters, both nationally and internationally. Our team members have worked with HEIs for many years and fully understand the governance, funding, regulatory and reputational issues you face, from student complaints and complex HR matters to international collaboration arrangements.

Some recent examples of our work in the HE sector includes:

- advising institutions on their response to the pandemic and the gradual return to campus of staff and students, including in relation to blended working, estates rationalisation, health & safety concerns, data privacy issues and governance and reputational risk
- advising institutions on a range of complex Equality, Diversity and Inclusion issues and their interface with laws of freedom of speech and academic freedom, including how they should deal with complaints concerning the establishment of a gender critical research network and of alleged anti-Semitism
- providing advice to a number of institutions in dealing with highly sensitive allegations of sexual harassment on how to best manage their own internal processes (especially where both the student and staff procedures have been engaged), how to balance fairness to both parties throughout the process and the interplay between internal processes and the criminal law
- advising a university on the landmark development of its campus with the redevelopment involving the creation of a c.£1.5 billion world class innovation district and major mixed use scheme with opportunities for office, residential, retail, leisure, hotels and research and development
- being the principal provider of international work for UK institutions and overseas institutions wishing to operate in the UK – our practice is unique in being both local and multi-jurisdictional
- providing strategic advice in relation to complex industrial relations issues, ranging from recognition and collective agreements, through to collective disputes, industrial unrest and industrial action and alternative consultation forums, including providing national thought leadership through sector bodies as well as supporting individual institutions on the recent campaign of industrial action in the higher education sector

Legal services for the higher education sector

We can provide joined-up advice across all areas of your business including:



Employment law and litigation

We work with many universities on managing complex internal procedures, including advising on the application of the relevant provisions of Charter, Statute and Ordinances; on managing organisational change projects; supporting universities in managing and defending employment tribunal claims and advising on international mobility of staff.

Recent experience includes supporting a university to successfully deliver a major restructuring exercise, spanning several academic and professional services areas. This was a complex change project, particularly as a result of the university's internal redundancy procedures which had not previously been used on this scale and the significant opposition to the restructuring process by affected staff and their trade union.



Equality and diversity and discrimination

We provide advice to institutions on all areas relating to this complex and sensitive topic including helping institutions respond to allegations of sexual harassment, advising on the boundaries between free speech and unlawful harassment, providing assistance on how to manage requests for reasonable adjustments with greater confidence and advising institutions on when they can use the positive action provisions of the Equality Act to accelerate their efforts to address under-representation in senior roles and to close their gender pay gaps.



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.



Freedom of information/data protection

Data protection laws and increasing regulatory and commercial pressure on the use of information, are vital issues that impact on the HE sector. We have helped many HE institutions with advice on the information law regime, including advising on publication schemes, core policy documentation, information law governance, strategy and training on all these areas.

The introduction of the EU General Data Protection Regulation (GDPR) in 2018 brought with it some of the most significant changes in almost 30 years in how the higher education sector processes personal information (whether on staff, students or other individuals). Our privacy and information team has been advising HE clients on the impact of GDPR from before it came into force and can provide practical, legal and strategic advice on how to formulate compliant data protection policies and practices, as well as providing you with advice in the event of challenge or investigation.



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 universities in relation to setting up charitable trusts and dealing with charitable registration and advising universities on exempt charity law issues arising from mergers and collaborations, including liaising with the Charity Commission on approvals and orders to allow universities to complete complex financial and other transactions.

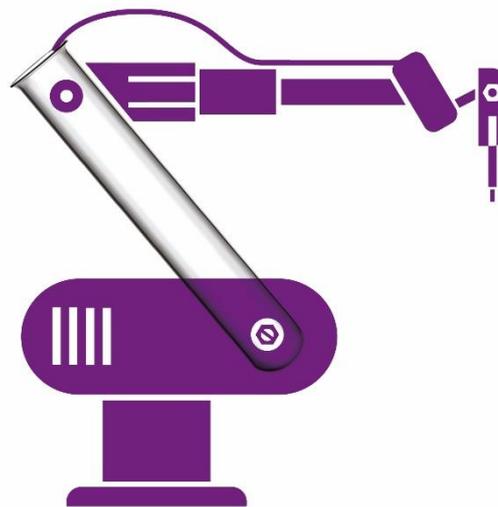


Governance and constitutional matters

Our experience includes advising three groups of several chartered universities on the reform of their Charter and Statutes across the UK. These reviews have included large wide-ranging changes to the documents and reviews specifically of the Model Statute; this followed on from work we had undertaken in the sector, including with UCEA, at a UK-wide level, to raise awareness of the need for reform. We also regularly advise post-92 institutions on changes to their Instruments & Articles of Government.

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International

Our extensive network of international offices enables us to help institutions establishing branch campuses or guide institutions through the regulatory regimes where distance learning students may be based. We have education expertise in teams in our Shanghai, Dubai, Dublin, Paris, Amsterdam, US and Riyadh offices. We continue to demonstrate our international capability and have utilised our international network of offices to provide advice to education institutions globally, including advice on operations in Saudi Arabia, China, Netherlands, Mauritius, New Zealand, Vietnam, South Africa, United Arab Emirates, Singapore, US, Hong Kong, Spain, Malaysia, Germany, France, Poland, Holland, Italy, Romania, Portugal, Uganda and The Gambia.



Students

We have a wealth of experience in providing advice to HEIs across the full range of student issues including the student contract and "CMA", complaints (including to the OIA), academic appeals, discipline, sexual violence and harassment, fitness to practise, litigation (including judicial review and discrimination), criminal convictions, and student immigration.



Property, estates and construction

Facilities and campuses often drive a student's choice of university. We have advised HE institutions disposing of surplus land to generate returns and also, following mergers, on the management of their estate to allow consolidation and delivery of a more manageable asset. We regularly advise on leases, licences, all aspects of the landlord tenant relationship and the disputes that can arise. Our planning and environmental teams have extensive experience in advising institutions on a variety of planning, consent, highways and environmental issues, including on climate change and environmental sustainability reporting.

The sources and structuring of funding is becoming ever more complex, particularly in the student accommodation arena. Our education finance team is well-versed in the funding market in the HE sector whether that be senior debt, bond finance or the income strip deal.



Pensions

We are one of the few law practices in the UK that has a dedicated education sector pensions practice advising on pension issues relating to the HE sector. Our experience includes advising institutions on the impact of changes to the USS, lifetime allowance issues for senior staff, pensions implications for staff who work overseas, the use of subsidiary companies which do not provide access to LGPS and the pension implications of disposals, in particular the triggering of a section 75 debt.



Judicial Review issues

We have assisted a number of institutions in considering the potential for challenging decisions made by public sector bodies and helped institutions to balance the legal merits of such potential claims with wider strategic concerns such as the need to maintain positive on-going relationships with such bodies. We have also advised a number of institutions on dealing successfully with judicial review challenges in respect of planning, procurement and student decisions.



Commercial

Our commercial advice includes drafting purchasing contracts to cover a large range of supplies (whether of goods or services), advising on terms of business, commercial debt recovery, carrying out due diligence exercises, advising on licencing issues and providing prompt, commercially focused and strategic advice on contract disputes – in some instances this will involve robust legal action and, in others, an approach which aims to preserve the relationship between the parties (e.g. with funding bodies and collaborators).



Corporate

We regularly advise on the powers of HEIs to enter into a range of business disposals and acquisitions, as well as supporting institutions with company constitutional issues and issues relating to share schemes.

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Intellectual property

We advise on all areas of intellectual property within universities, from IP strategy and protection, through to commercialisation and, where required, enforcement and litigation.



Health and safety

Our team regularly advise universities 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 universities with legal representation at interviews under caution; managing trials, pleas and sentencing in the event of a prosecution.



Public procurement/State aid

Our procurement group has advised universities in relation to a range of procurements including for works contractors, frameworks, shared services, service contracts, IT systems (both frameworks and contracts), training programmes funded in part by EU funds, joint ventures and campus development.

We have a team of experienced State aid and UK/EU funding lawyers. The team has advised universities on a wide range of projects, including on EU funded projects (under Horizon 2020 and previous Framework programmes) and on State aid issues relating to funding of core and ancillary activities and the interaction with private sector entities in the context of business support and collaborative research projects.



Disclosure and Barring Service, safeguarding and related matters

We understand the challenges which HEIs 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 an HEI's new safeguarding procedure, the management of safeguarding concerns and its obligations under the Prevent Duty; advising an HEI regarding its duty to make a referral to the DBS following the dismissal of a member of staff engaged in 'regulated activity' and conducting an audit for an HEI in respect of eligibility to carry out DBS checks on various categories of staff.

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Contact our Higher Education team

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What our clients say about us

"They have an outstanding practice in higher education."

"They are professional, punctual and assiduous in understanding our context before providing advice."

"Responsive, knowledgeable team, ably meeting our organisation's needs."

"What is exceptional about Eversheds Sutherlands is their willingness to listen and engage, which ensures their professional advice is always relevant, appropriate and clear. They have excellent relationships across the sector which can be invaluable when seeking both formal and informal solutions."

"The breadth of expertise offered is impressive, and all the lawyers strive to understand the context of our business."

"Worked with the firm on complex mediations and conducted a number of different and complex cases over the years. Very good with technology and creative with solutions."

What the legal directories say about us

"Possesses significant expertise in the education sector and frequently assists with international collaboration arrangements and campus redevelopment project. Advises leading research universities...and sector associations. Steeped in all facets of governance and regulatory compliance, as well as the full spectrum of contentious matters. Often advises university clients on pensions, employment, charity and intellectual property matters."

– Chambers and Partners

"Eversheds Sutherland (International) LLP advises numerous HE institutions, with experienced education lawyers handling employment issues, student matters, charity law and litigation and dispute management work. Other areas of strength for the 'responsive and knowledgeable' team encompass real estate, corporate and commercial, IP and constitutional issues and regulatory advice. The group has a developed network of specialists: with offices in Shanghai, Dubai, Dublin, Paris, Amsterdam, Riyadh and the US, the department is exceptional at advising education institutions globally."

– Legal 500