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ONSITE GENERATION

Energy users are coming under increasing pressure to reduce energy consumption, use energy more efficiently and source energy from renewable sources. Suppliers are coming under increasing pressure to help consumers.

These pressures come from various directions, including:

- international and national emissions reduction targets
- high gas and electricity prices
- the imminent Carbon Reduction Commitment (CRC)
- the Carbon Emissions Reduction Target (CERT)
- the proposed new Community Energy Saving Programme (CESP)
- the Renewables Obligation
- concerns over energy security.

A large proportion of the UK's carbon emissions arise from burning fossil fuels for space heating. More efficient boilers and biomass boilers can significantly reduce the carbon emissions of an organisation and reduce costs.

Universities and colleges are large consumers of energy and will almost

certainly be caught by the CRC. This means that they will have to purchase allowances to emit CO₂ and submit those allowances to the Environment Agency. There are costs associated with the scheme, both in purchasing the allowances and in administering the scheme. As part of the CRC a league table will be produced showing which organisations have done most to reduce their emissions.

Whilst gas and electricity prices are starting to fall, interest in onsite generation is growing, for the reasons given above and also because it is becoming more and more important to be seen to be acting in a sustainable manner. In addition, generation using what would otherwise be a costly waste product, for example, food waste or

animal slurries in an anaerobic digester, not only saves money and solves a waste problem, but could actually generate income from the sale of the electricity and heat.

Onsite generation takes many forms including:

- combined heat and power plants using gas, biomass or biogas
- anaerobic digestion of food waste or animal slurries with the resulting gas being burned to produce heat and power
- wind turbines.

Certain renewable electricity generation benefits from support under the Renewables Obligation, or could be rated under the CRC





as emitting zero carbon. Support under the Renewables Obligation helps to make a project competitive with traditional energy sources, and zero rating under the CRC will reduce costs.

In the Energy Act 2008, the government took powers to introduce a renewable heat incentive and a feed in tariff for microgeneration, up to 5MW. These initiatives give the opportunity for generating income from a renewable energy project.

The Planning and Energy Act 2008 requires local authorities to consider sustainability issues when determining planning consents, so a campus redevelopment incorporating an element of renewable energy may be more favourably considered by the planning authority.



“The Planning and Energy Act 2008 requires local authorities to consider sustainability issues when determining planning consents”,



Careful consideration needs to be given to the type of renewable energy project to be introduced. A biomass boiler, for example, will need a suitable storage facility for the woodchip or pellets and easy access for delivery so that there is minimal disruption to the activities of the institution.

An anaerobic digester needs sufficient feedstock (for example food waste or animal slurries) so agreements with local sources will be required if this is not generated by the institution.

The issues to consider are complex and it is not always easy to identify the most suitable solution. The key issues include the level of demand, demand profile, availability of

grants, site configuration, environmental and planning issues, and arrangements for operation and maintenance of the plant.

Energy Service Companies (ESCOs) will have much to offer, as often the model is that the ESCO will install and own the equipment and undertake to provide energy to the customer in accordance with the customer's defined needs. Careful and detailed consideration of all options will produce the one that is most suitable.

For further information on this topic, please see our previous bulletins on Bioenergy and Anaerobic Digestion at our dedicated climate change portal www.climatechange-forum.co.uk/home.htm.

Catherine Burke
Partner, Energy & Utilities
T: 0870 763 1552
E: catherine.burke@martineau-uk.com



BEWARE OF INVOKING STEREOTYPICAL ASSUMPTIONS - AN ANALYSIS OF RACIAL HARASSMENT



One person's jocular banter may be construed by another as deeply offensive vituperation. Though the statutory provision outlawing harassment on racial grounds came into force in July 2003, case law has not until now provided any adequate guidance on where the dividing line between humour and humiliation on racial grounds is situated.

The case

The Employment Tribunal (EAT) in the case of *Richmond Pharmacology v Dhaliwal* has provided a very helpful analysis on the application of the law on racial harassment. The EAT decided that the tribunal was entitled to conclude that a remark made to a female employee of Indian ethnic origin referring to the possibility of her "being married off in India" had the effect of violating her dignity and constituted statutory racial harassment. The remark was not entirely unrelated to Ms Dhaliwal's

circumstances as she had previously referred to the possibility of getting married, to the fact that her parents wanted her to get married and that she intended to visit India shortly. The employer claimed that the remark made to Ms Dhaliwal, who had handed in her notice, in a meeting to discuss the quality of her work and working out her notice, was: "We will probably bump into each other in future, unless you are married off or in India".

The definition of harassment

A person subjects another to harassment where on the grounds of race or ethnic or national origins, he engages in unwanted conduct which has the purpose or effect of:

- violating that other person's dignity; or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for him.

Conduct shall be regarded as having the effect specified in (a) and (b) only if, having regard to all the circumstances, including the particular perception of that other person, it should reasonably be considered as having that effect.

The constituent elements of harassment

In order to determine whether harassment has occurred, the following questions should be posed:

- Has there been unwanted conduct?

The EAT emphasised that conduct can be unwanted even though it is a one-off event. Hence there is no need for repetition or for a course of conduct.

The tribunal accepted Ms Dhaliwal's version of the remark and concluded that it was unwanted. It also believed that the remark was unnecessary in the context of the meeting.



- Did the conduct either have the *purpose* or *effect* of violating the person's dignity etc?

An employer may be held liable if the effect of the conduct was to violate dignity etc, even if that consequence was not intended. Conversely, an employer may be liable if an employee acted with the intention of violating dignity etc, though he/she did not produce the intended consequences.

The tribunal accepted that it was not the purpose of the employer to violate Ms Dhaliwal's dignity. It was an ill-judged remark, but not deliberately racially offensive. Notwithstanding that, it had that effect given Ms Dhaliwal's immediate reaction and her continued sense of grievance.

- Was it reasonable in all the circumstances for victim to have felt that his/her dignity was violated etc?



make a connection between what was said and stereotypical views of Indian women, and for her to find that offensive.

The EAT concluded that the remark evoked the stereotype of forced marriages.

- Did the harasser act in that way on the grounds of the victim's race?

ethnic origin, irrespective of whether they were linked by "off" or "or". There was no need to refer to Ms Dhaliwal in this way in the context of the meeting.

The tribunal awarded Ms Dhaliwal only £1,000 for injury to feelings to reflect that fact that it was an ill-judged remark, rather than a comment intended to cause offence. It also took into account that it was a single incident within an otherwise positive working relationship.

Lessons from this case

Institutions should heighten awareness amongst staff of the dangers of using language in their dealings with other staff and students that may, even unwittingly, invoke racial stereotypes. While working relationships between staff, and between staff and students, should not be subjected to a form of censorship, staff should nevertheless be sensitive to the cultural and racial connotations of the language they use. They should also be aware that crude stereotypical assumptions can often offend, particularly where the context renders any reference to race inappropriate.

Geraldine Swanton
Senior Associate, Education Team
T: 0870 763 1455
E: geraldine.swanton@martineau-uk.com

“staff should nevertheless be sensitive to the cultural and racial connotations of the language they use”.

Where a victim is unreasonably prone to offence, a claim for harassment will not be successful. Reasonableness will be assessed on the facts of each case, including the context within which the conduct took place. If it was apparent that the conduct was intended to cause offence, then it is more likely to be reasonable for the victim to feel offended.

The tribunal did not find that Ms Dhaliwal's perception was over-sensitive. It was reasonable for her to

This usually requires examining the reason why the harasser acted in the way he/she did. However, examining the harasser's mental processes is not always necessary. Where the conduct complained of is overtly racial abuse, it will be concluded that the harasser was acting on racial grounds.

In relation to Ms Dhaliwal, the tribunal concluded that the juxtaposition of "India" and "married off" suggested a stereotypical view of women of that

CHARITIES ACT 2006 - UPDATE

Public benefit

Before the 2006 Act, charities established for the advancement of education were presumed to be for the public benefit. This presumption has been abolished; the Act requires all charities to demonstrate public benefit. There is no statutory definition, but the Charity Commission is required to issue guidance clarifying the meaning of public benefit according to the existing law, and to promote understanding of the operation of this new requirement. Thus legislators were able to lob the hot potato of the charitable status of high-charging public schools into the Charity Commission's lap.

FE college some time ago, the Charity Commission has begun assessing the public benefit of some English institutions. The results will be published later this year.

There were few surprises in the general guidance on public benefit in England, and only the most dedicated of Education Brief's readers will have ploughed through the accompanying digest of previous case law, reaching back to the eighteenth century. The new education-specific guidance also contains little that is likely to raise concerns about the presumed public benefit of conventional activities of HEIs and FE colleges (although interesting questions such as "Is there a difference between

The guidance on fee-charging by charities will certainly have been anxiously scanned by public schools and their advisers, leading to the current debate about overall effect of opportunity for public benefit - where, for example, public schools share their facilities with maintained schools. But given that improving access is such an established issue in HE, and hardly an issue at all in FE, and the relation of fees to public subsidy (at least for now), the guidance does not ring loud alarm bells for the sector.

However, HE and FE may be sitting on a time-bomb here in the form of the difficult questions surrounding closed courses and commercial research. Government imperatives for education institutions to maximise external income and align themselves with the requirements of business seem to be unavoidably inconsistent with the staples of charitable status. The Charity Commission is represented, with all other stakeholders, on the BUFDG working group established to grapple with these thorny issues, but little has been heard recently about their progress in reconciling these opposing principles.

"The Commission published its general guidance on public benefit in January 2008".

The Commission published its general guidance on public benefit in January 2008. Just before Christmas, following an extensive consultation last year, it published further guidance aimed particularly at charities whose public benefit was previously taken for granted - those whose aims include the relief of poverty, the advancement of religion or education - and also at charities which charge fees.

Following in the steps of the new Office of the Scottish Charity Regulator, which published reassuring assessments of the public benefit of a Scottish university and an

education and the mere increase in knowledge?" and "Can unstructured information be education?" could no doubt be debated indefinitely).

Charitable status brings exemption from most taxation and attracts funds, so regulators sometimes find themselves dealing with bogus charities, which may include schools and other apparently educational establishments. This is the context in which the guidance on public benefit in education is most likely to be used.

Charitable incorporated organisations

The consultation on the secondary legislation required to implement the creation of CIOs, and two draft constitutions, finished at the end of last year. The Charity Commission's response and the final versions are expected shortly.

The arrival of this entirely new type of incorporated body, with limited liability and its own capacity to own land, employ staff and enter into contracts, is a significant legal event. However, there will be limited direct impact on universities and colleges in England, where even those few institutions which are not currently exempt from registration with the Charity Commission are to be moved into that category. One of the purposes of the 2006 Act is to step up the regulation of exempt charities, which was perceived to be inadequate. Responsibility for monitoring the whole of the HE and FE sectors' compliance with charity law will pass to HEFCE and the LSC or its successor(s) as principal regulators, under the scheme of delegation set out in the Act.

The whole point of a CIO is that it will be a legal entity registered only with the Charity Commission, and not with Companies House (so by-passing the Companies Act 2006, the longest single piece of legislation ever passed in this country); it cannot be an exempt charity. It will not therefore be available as an alternative structure for any new HEI established in future in England; this will continue to require the use of a company limited by guarantee. Similarly, those institutions constituted as companies at present will not be able to convert

themselves into CIOs, although many incorporated charities outside the education sector are likely to do so in time.

As well as subsidiary trading companies, some institutions have formed charitable companies for special purposes; the use of a separate charitable company or trust for fund-raising from alumni and others is increasingly popular. If these 'subsidiary' charities are formed for a purpose of the parent university or college, and are controlled or administered by it, they too will be exempt from registration with the Charity Commission. Again the CIO vehicle will not be available for this purpose, as a CIO is by definition a registered charity.

But there will be circumstances where HEIs and colleges will be involved in setting up new charities with purposes more widely defined than the purposes of the institution, or where administration and control are not exercised by the institution. For example, universities, colleges and schools may participate in charities formed to encourage local progression, and directors/trustees may represent a number of institutions, or be independent of them. In such cases, the CIO will be an attractive option, and charities already formed as guarantee companies will consider conversion.

The statutory powers of colleges and post-1988 universities to be involved with companies have been expanded to include CIOs. In Wales, where there will be no primary regulator for education and institutions will be required to register with the Charity Commission, the use of CIOs in HE and FE will potentially be much greater.

A CIO's constitution will look quite similar to a company's memorandum and articles of association. The distinction between members of the organisation and its directors/trustees (which, if experience with subsidiary companies is repeated, can easily be lost sight of) is preserved. The Commission has produced two forms of model constitution - for the "foundation" type of charity, where the trustees are the only members, and the "association" type, where there is a body of members, distinct from the trustees who run the charity. Use of the models will be mandatory, but there is flexibility in some of the provisions.

The contents are not summarised in any detail here. They define the charity's purpose and powers, and deal with the use and application of property, functions of and payments to trustees, membership and meetings rules, record keeping and winding up. As with a charitable guarantee company, assets remaining after dissolution must be applied for similar charitable purposes. The questions raised in the consultation, however answered, are unlikely significantly to affect the form of the constitutions already produced.

Paul Pharaoh
Partner, Education Team
T: 0870 763 1314
E: paul.pharaoh@martineau-uk.com



'THIRD MISSION' SETS COURSE TO A NEW UNIVERSE?

As part of the DIUS process of developing a 'framework' for higher education over the next 10 to 15 years, the Secretary of State John Denham commissioned nine contributions on a variety of subjects (all available on the DIUS website). Of particular interest to those involved with 'third mission' activity and HE governance is the contribution of Professor Paul Wellings, Vice Chancellor of Lancaster University, on 'Intellectual Property and Research Benefits'.

His report is set against the background of a perceived conflict between universities 'reaping the fruits of their own labour' and 'delivering wider benefits to the economy'. The UK Research Councils have increased the emphasis on 'economic impact' (following the report to the UK Funders Forum) and this trend looks to continue in the post-Wellings universe.

A healthy by-product of this could be that government departments and agencies will be less precious about intellectual property (IP) arising out of their interactions with universities. A less dogmatic and cloying approach from government departments and agencies involved in IP creation would be welcomed by universities, and should result in a quicker and more effective technology transfer process in many instances.

The main issues covered in the Wellings report were: the management of IP for the benefit of the university and the wider economy; incentives and rewards for institutions and staff; the links between

research students, graduate schools and effective IP generation and exploitation; and the co ordination of technology transfer offices.

The report provides some encouraging benchmarks that show UK universities have been doing very well against Australia, USA and Canada (based on outcomes from research spend). China and India are inexorably increasing their research capability - and competition for PhD students will become fiercer. The report demonstrates some significant correlations between PhD numbers, publications, patents and IP income. If PhD students go elsewhere, their IP income will go with them.

It is difficult to predict whether the report's recommendations will be adopted, but it is likely that most of them will be at least partly implemented. If so, IP commercialisation in the UK will change significantly, but not dramatically. Here is what the post Wellings universe of IP commercialisation might look like:

- The underlying aim of research and its commercialisation will be clarified. DIUS is urged to state that the primary purpose of research is to create a wide range of social and economic benefits for the UK. Historically, universities have found that interactions with government departments and agencies have hampered IP commercialisation. One reason is that these bodies seek to build their own exclusive products with

the IP arising from funded projects. Wellings believes that stating that the primary purpose of research is for the UK as a whole may reduce inefficiencies and this should be coupled with greater use of standard 'Lambert' agreements and more realistic IP treatment at government agencies.

- Policies governing IP will change (or will be adopted where currently they do not exist!). This will be prompted by HEFCE asking universities to report on their IP governance and the clarity of their IP policies and procedures. Universities will find it harder to grab IP generated by staff and students without giving them greater incentives - presumably money. For staff, pay and promotion will be linked to involvement in IP commercialisation. Staff consultancies will be closely regulated to stem a



significant loss of university background IP where work is done unknown to the university or without proper controls on IP 'leakage'.

- Co operation between universities will be encouraged. Expect HEFCE to require universities to submit additional metrics to demonstrate the benefit of their research. DIUS will also look closely at how university research commercialisation and knowledge transfer influences regional economies. The "Roberts money" which better equips PhD graduates for the commercial world by paying for training courses for 'transferable skills' will increase and the programme will be expanded.
- Technology transfer offices (TTOs) will be unrecognisable. Wellings believes that the IP performance of universities with small TTOs (where PhD numbers and funding are low) will not catch up

with the much larger research intensive institutions. His response is to concentrate funding in the universities with large PhD cohorts and create "hubs" which focus on a region or specialist disciplines. Although the report has some words of comfort that smaller centres, the "spokes", should have capacity to be involved in "other aspects of knowledge transfer", the spokes are likely to become less important as lost funding will drive them to use "hubs" as required. As the competition for PhD students accelerates, the "spoke" universities

may struggle to attract research funding and/or viable student numbers.

When Professor Wellings presented his report to the UNICO conference in November 2008, it was this latter point which caused the greatest controversy. There was extensive debate and concern that this would lead not only to a 'premier league' of universities, but a perpetual 'top four' who would take an ever increasing share of funding, PhD students and TTO expertise. The latest HEFCE research funding allocation announced on 5 March 2009 distributed 27% of the total to Imperial, UCL, Oxford and Cambridge. Their share is likely

“The report provides some encouraging benchmarks that show UK universities have been doing very well against Australia, USA and Canada”.

to increase - at the expense of others. To compete in the global market, this solution - although undesirable to some - is an irresistible conclusion.

Des Burley, Partner
Intellectual Property and Technology Team
T: 0870 763 1107
E: des.burley@martineau-uk.com



THE SAFEGUARDING VULNERABLE GROUPS ACT - PART 3

In the last two issues of Education Brief we looked at the definitions of regulated activity under the Safeguarding Vulnerable Groups Act 2006, with reference to both children and vulnerable adults. In this article we focus on the duties imposed on institutions to check and disclose information about those engaged in regulated activity, and the sanctions imposed on institutions and individuals for failing to comply with the Act.

Independent Safeguarding Authority/ Independent Barring Board

The Act creates an Independent Barring Board (the Independent Safeguarding Authority (ISA)) which will make decisions about individuals who are likely to pose a risk to children and vulnerable adults. In order to achieve this, it will maintain two lists:

- the children's barred list; and
- the adults' barred list

and will decide whether an individual should be included in one or both of those lists. These lists will come into force on 12 October 2009 and will replace the existing List 99, the Protection Of Children Act (POCA) and the Protection Of Vulnerable Adults (POVA) lists.

Some individuals will be automatically included in one or both of the lists (because they have been convicted of certain offences to be specified by regulation e.g. serious sexual offences). Others with less serious but still relevant criminal convictions may be

given an opportunity to make representations about why they should not go on the list(s). A third category of people is those who have engaged in relevant conduct, such as endangering a child/vulnerable adult, possessing sexual material relating to children or sexually explicit images depicting violence to human beings, or who pose a risk of harm to children. This last category may also be included in one or both lists, but will have the opportunity to make representations to the ISA as to why they should not go on the list.

Regulated activity providers

The Act imposes duties on "regulated activity providers." This is the individual or organisation with ultimate responsibility for the management or control of the regulated activities in question, i.e. the education institution.

Duties are also imposed on "personnel suppliers" which are defined as not only including employment agencies/businesses, but also education institutions which supply: "to another person a student who is following a course at the institution for the purposes of enabling the student to obtain experience of engaging in regulated or controlled activity."

This covers institutions which send students on placement as part of their course.

Restrictions on participating in regulated activity

The Act places restrictions on those who participate in a regulated activity.

It is an offence for an institution to knowingly use a barred person or a person who is not subject to monitoring to carry out regulated activity. Institutions must not allow a person to engage in such activity without first checking that s/he is subject to monitoring. Penalties include an unlimited fine and up to five years imprisonment.

Where any of these offences is committed by an institution, but are proved to be as a result of the consent or connivance or through the neglect of a senior officer of the institution, then that individual may also be convicted of the offence.

Monitoring

Any person wishing to engage in regulated activity must apply to become subject to monitoring. As part of the application process enquiries will be made by the Secretary of State to check for previous convictions and cautions, and other relevant information from police forces.

This information must be provided to the individual who applied for monitoring. However, it is a criminal offence for an employer to ask the individual to supply these records to the employer.

Monitoring is designed to ensure that up to date information about the individual is held for as long as is needed. To cease being subject to monitoring, an individual must satisfy the Secretary of State that (s)he is no longer engaged in a relevant activity.

Provision of information

Regulated activity providers can apply for “vetting information” in relation to individuals who they intend to engage on regulated activity. This information amounts to confirmation that the individual is subject to monitoring, or alternatively that the individual is undergoing assessment. The reasons why an individual is undergoing assessment may be innocent (i.e. their application to be subject to monitoring has not yet been processed), or more sinister (i.e. the ISA is considering whether to put them on a barred list).

The Secretary of State will also have to notify registered regulated activity providers if (s)he ceases monitoring.

Regulated activity providers have to provide the ISA with certain information if, for certain reasons, they decide to withdraw permission for an individual to engage in regulated activity relating to children or vulnerable adults, or would have done so if the individual had not ceased the activity voluntarily.

The relevant reasons for withdrawing permission for the regulated activity are broadly those that would render a person eligible for barring such as conviction for certain offences (to be specified by regulations); particular types of behaviour in relation to children or vulnerable adults (e.g. possession of images of a sexually explicit nature); or because the provider is satisfied

that the individual might harm or attempt to harm a child or vulnerable adult or incite someone else to do the same.

Similarly, if an institution decides not to send a student on placement in the context of a regulated activity for any of the above reasons, then information about that student must also be referred to the ISA.

Implementation Programme

As Education Brief went to press the government announced a delay to the implementation of the Act, which had been due to come into force in October 2009. The current proposal is that new job applicants and students beginning courses in teaching, medicine and the allied professions and social work will be required to apply to the ISA for registration from July 2010. Consequently, the first large group of students to apply for ISA registration will be in autumn 2010. This requirement should be

highlighted to relevant applicants and the institution should make admission conditional upon registration. The institution will be required to check the student’s registration before they are placed in a regulated activity.

From October 2010, existing employees, students and volunteers with no CRB check must apply for ISA registration. Existing employees, students and volunteers with CRB checks will also need to apply for ISA registration, beginning with staff whose CRB checks are the oldest.

We will be closely monitoring developments and will keep institutions informed of any further delays to the implementation timetable.

Smita Jamdar
Partner and Head of Education
T: 0870 763 1332
E: smita.jamdar@martineau-uk.com



UNIVERSITY **REAL ESTATE** CONFERENCE

Members of our Real Estate Team were out in force in London recently, chairing, speaking at and attending this national event. An informative and entertaining set of speakers including surveyors, bankers, planning advisers, academics and solicitors advised on how to address the market conditions. University estate and finance directors should take note of the following:

Planning ahead

This has never been more important given the national and international competitive markets in which universities operate, and the need to deliver quality accommodation in an environmentally sustainable and financially viable way. The costs and benefits of a new built estate always have to be balanced against low carbon commitments and the sustainability which refurbishing/recycling of buildings can bring.

Taking a strategic and holistic view of the institution's estate will highlight surplus space which could be used better, differently or even let/sold for different uses. Space utilisation is vital - all buildings (new and old) need to be considered as to how they can be used more effectively and efficiently. This is particularly true for academic and R&D space which needs to harmonise functionality, flexibility, scale and location.

Financial considerations

Although universities are seen by banks as a good risk and a stable sector to lend to, the recession makes it even more important for universities to consider different funding and

partnership models. Bank borrowing is available for the right deals but all universities can expect tighter conditions as banks become even more risk averse and struggle with their own liquidity.

As with many aspects, there will be a flight to quality: well planned, sustainable, well designed and flexible buildings/schemes will find favour. Outsourcing long term facilities management with third party providers for the institution's whole estate (not just student accommodation) can bring attractive rewards, both financially and operationally, but the choice of partner and clarity of contract (including exit routes and known termination costs) will be vital to make this work effectively. There are great opportunities for universities to utilise new financial models (offshore, onshore, REITs) which may also impact on how their estate is managed and owned.

Student accommodation

Competition for students in the national and international markets highlights the need to invest in good quality accommodation, be it direct by the university or outsourced through a third party provider. There are opportunities and bargains to be had and a great chance for universities to influence markets as large scale users of residential accommodation. However, build costs for new stock and the effects of the credit crunch mean a flight to quality schemes. We are moving on to third generation residential stock which will be exemplified by even better design/space planning, a choice

of design units (not necessarily all en-suite), a greater focus on communal space, key city centre locations and partnership/collaboration with third party providers.

Sustainable estates

Institutions need to adopt an estates strategy which takes a long term view, ensuring they can adapt as market conditions shift and the UK embraces a low carbon economy.

Institutions should plan ahead and prepare robust business cases which build in flexibility and allow for phasing, so that the institution does over commit but for example can also time allow end sales to optimise capital receipts. Practical issues can be addressed now - drive out costs; look at mergers or disposals of surplus land; set out the institution's briefs clearly - land use, refurbishment, and new build.

Sustainability and improving the energy efficiency of the institution's estate is a sound long term investment which makes good business sense and can provide huge savings/returns. Carbon reduction commitments, energy display certificates and energy trading schemes are just some aspects which universities will need to address. Sustainability needs to be embraced by all staff and students to deliver real and lasting change.

Clive Read

Partner, Property Group

T: 0870 763 1439

E: clive.read@martineau-uk.com

EDUCATION NEWS

Martineau is delighted to have been appointed to the Crescent Purchasing Consortium Framework Agreement for legal services. We are one of only five firms to have been selected to provide legal services throughout England and Wales, chosen on the basis of our commitment to supporting the sector, providing outstanding service and offering excellent value for money. Further information can be found at the CPC website: www.cpc.salford.ac.uk.



Crescent Purchasing Consortium

LSC funding of capital projects - update

We circulated an update to colleges in February summarising the contractual and financial impact of the current delays - see www.martineau-uk.com/publications.htm. Sir Andrew Foster's report on how the situation is to be resolved is awaited as Education Brief goes to press.

According to newspaper reports, whilst finance for eight projects was confirmed by the Secretary of State and the LSC, a further 79 are stuck at approval in principle stage. The LSC's national council has apparently asked for an action plan for responding to legal challenges, and the AoC is said to be seeking legal advice. Those colleges whose capital schemes had not gained approval in principle seem to be in limbo.

Clearly all colleges will hope that the long overdue overhaul of the FE estate can be completed without penalising those where

schemes have taken longer to work up, often for planning or other reasons beyond their control. Legal challenge, based on contractual arguments, or a public law legitimate expectation, would be a last resort, and it may be that some sabre-rattling is going on at present.

We will continue to circulate updates to colleges as matters progress. Copies of all of our bulletins can be found at www.martineau-uk.com/publications.htm.

Any college which would like to discuss the position further should contact:

Smita Jamdar, Partner and Head of Education,
T: 0870 763 1332
E: smitta.jamdar@martineau-uk.com

If you would like any further information about this issue of Education Brief or our work for further and higher education clients, please contact: Smita Jamdar, Partner and Head of Education,
T: 0870 763 1332
E: smitta.jamdar@martineau-uk.com

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