



CERTAIN UNCERTAINTY - CRB CHECKS ON STAFF IN HE AND FE WHO WORK WITH CHILDREN

The introduction of age discrimination legislation has focussed many institutions' minds on the implications of admitting children (i.e. persons under 18) onto courses. Significant amongst these implications is the issue of CRB checks, the subject of intense scrutiny in the Bichard Enquiry into the Soham murders. A further concern has been created by the CRB itself whose audits admonish many FE institutions for being over-zealous in their approach to checking new staff. The law relating to CRB checks is fragmented and complex, the result of which is that confusion abounds within the sector as to whether checks can be conducted at all, and if so, whether they should be conducted at an enhanced or a standard level.

The law

The law rightly limits the category of person on whom employers can obtain information relating to spent convictions, which will be disclosed by a CRB check. In relation to work with children, this is restricted to:

- Any person recruited to FE for work "whose normal duties involve regular contact with persons under 18"; and

- Persons working in a "regulated position" defined by reference to a long list of posts primarily concerned with work in hospitals, care homes, detention centres and other residential institutions for children. The list however also includes the following which are relevant to the education sector:

- A position whose normal duties include caring for, training, supervising or being in sole charge of children;
- A position whose normal duties involve unsupervised contact with children under arrangements made by a responsible person (i.e. parent or guardian).

There is an additional post which is "work in an educational institution". "Educational institution" is defined as an institution which is mainly or exclusively for the provision of full-time education to children. Hence this does not apply to HE, nor to the majority of FE colleges which cater for 16-19 year olds and beyond.

CRB checks are usually made on recruitment, rather than in relation to current staff. However, where there is a significant change in the duties allocated to members of existing staff, bringing them within the category of a regulated position, a CRB check may be conducted.





Types of disclosure

Standard CRB checks will disclose all conviction-related information, whether spent or not, and will indicate whether the individual in question is barred from working with children, or is otherwise restricted in undertaking such work. Enhanced checks disclose all of the information contained in a standard check, together with relevant non-conviction information held on police files.



Enhanced v standard disclosure

Because enhanced checks constitute a significant breach of privacy, the category of person on whom such a check may be conducted is restricted to a sub-set of those listed under the definition of a regulated position, and is not permitted in relation to all staff who hold such posts. It is therefore dispiriting to learn that the complexities of the law elude legislators, as revealed in Bill Rammell's letter to HEIs dated 8 September 2006, which requires assurances from institutions that they are, amongst other things, obtaining enhanced CRB disclosures for all staff working in regulated positions. The Regulations relating to CRB checks provide that enhanced disclosures will be permitted for the purposes of considering an applicant's suitability for a position which "involves regularly caring for, training, supervising or being in sole charge of persons under 18". Standard checks may therefore be made in relation to the remainder of regulated posts which do not meet this definition - in the context of FE, posts whose normal duties involve regular contact with children, and in HE, posts whose normal duties involve unsupervised contact.

CRB checks in FE

FE colleges could be forgiven for being confused with regard to determining when an enhanced rather than a standard check is required. The distinction turns on whether the job applicant is to be "regularly" involved in caring for, training or supervising children (i.e. enhanced disclosure), or whether contact with children is only part of the job applicant's "normal" duties (i.e. standard disclosure). The Richard Enquiry stated that the distinction between "normal" and "regular" was particularly inapt to capture the degree of risk posed by those whom children could trust, and recommended that enhanced checks be conducted for all posts that involved working with children. This has already been implemented for schools by means of new regulations, but not as yet for FE colleges. Hence the burden of applying the distinction remains and colleges will have to decide whether a particular post has a greater degree of personal contact with children to justify an enhanced check.

All teaching posts are likely to be eligible for enhanced checks, as teaching by its very nature involves regularly supervising, training or being in sole charge of children. Whether technicians and administrative staff should be the subject of enhanced or standard checks will depend on the duties which they are required to perform in practice and their proximity to children within the college.

CRB checks in HE

It is clear that the posts listed under "regulated positions" were not drafted with HEIs in mind and thus there is a certain artificiality in applying the definitions to HE. In addition, the distinction between posts requiring standard and enhanced checks is esoteric and confusing.

What is clear is that HEIs will not be required to conduct checks for all posts on the off-chance that they may provide an encounter with an under-age student. Consideration will need to be given to the duties of the particular post, and if contact with children is an integral part of the duties to be discharged, then a standard check will be appropriate, or an enhanced check where the contact provides a high degree of individual contact.

Enhanced checks are likely to be appropriate for staff who are responsible for young children in the course of summer school projects. Otherwise, posts which will involve regularly caring for, training, supervising or being in sole charge of persons under 18 in the course of the provision of HE are likely to be limited. Wardens and tutors of halls of residence and personal tutors allocated to students under the age of 18 may well come within the enhanced disclosure category. It is difficult to envisage any other posts concerned with the provision of higher education which would provide the close personal contact required by the Regulations justifying an enhanced CRB check. It may be the case that the admission of children is unlikely to increase significantly in the wake of anti-age discrimination legislation, and the majority of under-age students will turn 18 in the course of the academic year. In such circumstance, it would seem that the requirement to conduct CRB checks is less obvious.

Bill Rammell has promised to provide guidance on the issue of children in HE, but at the date of writing none has been produced. Unlike colleges in the FE sector, HEIs do not have a broad statutory duty to promote and safeguard the welfare of children. Nevertheless, we anticipate that the guidance will require HEIs to assume responsibilities analogous to such a duty. It may therefore be prudent for HEIs to participate in the consultation process that has been advocated by UUK in relation to this issue.

New legislation

Following publication of the Bichard Report, the government has drafted legislation intended to provide a coherent framework for conducting CRB checks. The draft bill is wending its way through Parliament at present and is not due to come into force until 2008. We will report on it in a future edition of Education Brief.

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EMPLOYING MIGRANT WORKERS

The Immigration, Asylum and Nationality Act 2006 received Royal Assent on 30 March 2006 and is due to come into force in stages which began in June 2006. The Act provides (although there is as yet no specific date for this section coming into force) for criminal liability and a fine and/or up to two years' imprisonment if a person employs another knowing that he is subject to immigration control and that he has not been granted leave to enter or remain in the UK, or his leave to enter or remain in the UK is invalid or ceased to have effect, or he is subject to a condition preventing him from accepting employment.

There is no defence available within the Act for a person found guilty of this offence. However, the Act does provide for an exemption from civil liability and from the separate penalty for non-compliance for an employer if it employs someone without knowledge after having performed certain prescribed checks.

The employer should check the original documents included in List 1 or List 2 (see box). It should do this before the person starts working for it and should keep a copy of the documents. The employer should undertake basic visual checks to ensure that the documents

relate to the applicant, by comparing any photos in the documents and dates of birth against the appearance and age of the applicant.

Where a job applicant has produced a document which is in List 1 and the employer has checked and copied the relevant parts of the document, the employer has established an excuse once and for all in relation to its employment of that person and need not carry out any subsequent document checks.

Where an employee has produced a document contained in List 2, the employer must note the date on which it carried out the document check. In order to maintain its exemption against a penalty for employing that individual, the employer must carry out a follow-up check no later than 12 months after the initial check. Again, this will involve asking the employee to produce either a document on List 1 or List 2. The same visual checks should be carried out where appropriate, to ensure the document relates to the holder and the employer should take another copy of the document, recording the date on which the check was made. These follow-up checks must be repeated no less frequently than every 12 months until the employee produces a document on List 1, or leaves the

employer's employment.

Where an employee is unable to produce a document on List 1 or List 2 when requested to as part of a follow-up check and claims this is due to having an outstanding application for leave to remain with the Immigration and Nationality Directorate, the employer should seek the consent of the employee to contact IND to verify whether the employee continues to enjoy the right to work in the UK. As a matter of good practice, it is important to have clear written procedures for recruitment and selection based on equal and fair treatment for all applicants and to ensure that these are known to all relevant staff. All job selection should be on the basis of suitability for the post. Employers should ensure that no prospective job applicants are discouraged or excluded either directly or indirectly because of their appearance or accent. Employers should not make assumptions about a person's right to work, or immigration status, on the basis of their colour, race, nationality or ethnic or national origins, or the length of time they have been in the UK.

The best way to ensure that an employer does not discriminate is to treat all applicants in the same way at each stage of the recruitment process.

For example, if the employer provides information to prospective applicants, or if it supplies an application form, it could also include a reminder that the successful applicant or short-listed applicants will be asked to produce original documents included in List 1 or List 2.

An employer may ask applicants to provide the relevant documents at any stage before they start work.

Depending on an employer's recruitment processes, it may be most convenient to request documents from all those called to a first interview, or just from those called to a second interview, or only from persons chosen to fill the vacancy. As a matter of best practice, documents should be checked before a formal offer of employment is made.

Job applicants should not be treated less favourably if they produce a document from List 2 as against List 1. An employer will need to bear in mind that a person producing a document from List 2 will have a time limit on their legal ability to stay and work in the UK, but it is possible for certain categories of entrant to apply to extend their entitlement to remain and work here. An employer should only ask questions about an applicant's immigration status where necessary to determine whether their status imposes limitations on the number of hours they can work each week, or the length of time they are permitted to work within this overall period of leave.

If a person is not able to produce the appropriate listed documents an employer should not assume that he or she is living or working in the UK legally, and should refer the person to IND, a Citizens' Advice Bureau or other agency for advice.

An employer should try to keep the job open for as long as possible, but is not obliged to do so if it needs to recruit someone urgently.

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List 1

- A passport showing that the holder is a British citizen, or has a right of abode in the United Kingdom
- A document showing that the holder is a national of the European Economic Area (EEA) or Switzerland (either a national passport or identity card)
- A registration certificate indicating permanent residence issued by the Home Office to a national from an EEA country or Switzerland
- A permanent residence card issued by the Home Office to a non-EEA national family member of an EEA national
- A passport or other travel document endorsed to show that the holder can stay indefinitely in the United Kingdom, or has no time limit on their stay
- An Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the person named in it can stay indefinitely in the United Kingdom or has no time limit on their stay
- A full birth certificate issued in the United Kingdom which includes the names of the holder's parent(s) produced in combination with a document giving the person's permanent National Insurance (NI) Number and name (P45, P60, NI Card or document issued by a government agency or a previous employer)
- A birth certificate issued in the Channel Islands, the Isle of Man or Ireland produced in combination with a document giving the person's permanent NI Number and name
- A certificate of registration or naturalisation stating that the holder is a British citizen produced in combination with a document giving the person's permanent NI Number and name

- A letter issued by the Home Office to the holder which indicates that the person named in it can stay indefinitely in the United Kingdom, or has no time limit on their stay, produced in combination with a document giving the person's permanent NI Number and name

List 2

- A passport/other document showing the holder can stay in UK and do the type of work the employer is offering
- A certificate of application issued by the Home Office to a non-EEA national family member of an EEA national
- A residence card issued by the Home Office to a family member of an EEA citizen
- An Application Registration Card issued by the Home Office to an asylum seeker stating that the holder is permitted to take employment
- An Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the person named in it can stay in the United Kingdom and do the type of work the employer is offering
- A letter issued by the Home Office to the holder which indicates that the person named in it can stay in the United Kingdom and do the type of work the employer is offering, produced in combination with a document giving the person's permanent NI Number and name.



NEW GUIDANCE FROM THE EUROPEAN COMMISSION ON HOW TO AWARD LOW VALUE CONTRACTS FAIRLY

The European Commission has recently published an Interpretative Communication containing guidance on the application of European law to the award of public contracts which either fall outside of the scope of the public procurement directives (due to their low value) or which do not attract the full procedural obligations of the directives (such as contracts for "Part B" services). These contracts account for the vast majority of public contracts in the EU. The guidance catches public works contracts (essentially building and construction) under the regime threshold of £3,611,319, public supplies contracts (essentially goods and materials) under £144,371 and many public services contracts under £144,371. Only contracts with a very low value without impact on the internal market are not covered.

Purpose of Interpretative Communication

While the Interpretative Communication does not create new legal obligations, it reflects and aims to interpret the existing caselaw of the European Court of Justice (ECJ) by suggesting best practices which bodies governed by public law such as FE & HE institutions should apply when awarding contracts

relevant to the internal market.

Advertising obligations

FE and HE institutions can meet the requirements laid down by the ECJ by publishing sufficiently accessible advertisements prior to awarding contracts. Adequate methods of publication include:

- Internet (via university or college website). Advertisements should be presented so that potential bidders can easily access relevant information;
- National Official Journals (i.e. Law Gazette) or papers with national or regional coverage or specialist publications;
- Local means of publication (including local newspapers & journals). This may only be adequate in the case of small contracts for which there can only be a local market;
- Official Journal of the European Union/TED (Tenders Electronic Daily). This is probably better suited for larger contracts.

Content of Advertising

The advertisement must contain a short description of the contract to be awarded, the award method and an invitation for interested applicants to contact the institution concerned. The

advertisement should contain sufficient information so that an undertaking from another Member State can reasonably decide whether or not to express an interest in obtaining the contract.

Awarding Contracts

The Interpretative Communication also provides guidance on how to ensure that contracts are awarded impartially and fairly. This can be achieved by:

- Using a non-discriminatory description of the subject-matter of the contract rather than referring to specific makes, sources or processes;
- Ensuring equal access to potential tenderers by refraining from imposing conditions which would rule out offers from particular Member States or regions;
- Recognising diplomas, certificates and other evidence of formal qualifications from other Member States (providing that they offer an equivalent level of guarantee);
- Setting time-limits which would permit undertakings from other Member States to sufficiently prepare their offers.

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ARE TELECOMS APPARATUS ON YOUR RADAR?

Over the past decade or so, many institutions have entered into agreements with telecommunications operators to allow the installation of apparatus on their property. Masts and aerials can be seen on roof-tops or at ground level, sometimes disguised as trees! The fees paid by operators (in exchange for use of an area which would not otherwise yield an income) are attractive. However, institutions should beware the statutory protection afforded to telecoms operators. This can cause difficulties if at a later date they want the equipment removed. Operators can seek to establish security of tenure under general landlord & tenant legislation and also specific protection under telecommunications legislation.



Protection under the Landlord and Tenant Act 1954

Unless the agreement is very carefully drafted as a licence, it is in reality likely to be a lease attracting the same protection afforded to general business tenancies. As a result, upon termination of a (lease) agreement with a telecoms operator, the operator may have statutory rights to require a new agreement unless the institution can prove one of the defined grounds for possession. Certain of those grounds require evidence of breach of the terms of the agreement on the part of the operator (such as persistent arrears); other grounds require evidence either that suitable alternative accommodation has been offered, the property on which the apparatus is situated is to be demolished or reconstructed, or the institution intends to occupy the property itself.

In light of this, institutions entering agreements with telecoms operators should give serious consideration to contracting out of the security of tenure provisions contained in landlord and tenant legislation. This requires a specific procedure to be followed. If the agreement is to run for a significant period of time, they should also ensure that it contains a contractual right for them to terminate it early.

Protection under the Telecoms Code

The principle behind the Telecoms Code, contained in Schedule 2 to the Telecommunications Act 1984 (as amended by the Communications Act 2003), is that no person should unreasonably be denied access to electronic communications networks or services.

The Code confers potentially draconian powers enabling operators to demand that landowners grant agreements to site apparatus upon their property, regardless of whether any apparatus has been sited there previously. Operators can apply to the court for an order conferring rights against landowners' wishes. Whilst the court must be satisfied that landowners can be adequately compensated financially and that the order is justified by the need to secure access to communications networks/services, it will have regard to the principle that such access should not be unreasonably denied. The Code also confers additional security of tenure upon operators, which could frustrate institutions seeking the removal of apparatus installed pursuant to existing agreements. Whilst an institution can serve notice upon an operator requiring the removal of their apparatus where an alteration of the



apparatus is necessary to enable a proposed improvement to the land (including any redevelopment), the operator may then serve a counter-notice, in which case the institution cannot force the removal of apparatus without first obtaining a court order.

An institution may also serve notice upon an operator requiring the removal of apparatus in non-redevelopment situations (for example at the end of the contractual term of an agreement). Again however the operator may serve a counter-notice, which necessitates a court order before the removal of apparatus can be forced.

In making any order, the court must have regard to the principle concerning access to communications networks/services. The effect of the Code is however partially mitigated by provisions relating to payment of compensation to landowners who are unable to remove telecoms apparatus from their properties, and also by the practical reality that operators are often willing to negotiate regarding the removal of apparatus. The extent of such willingness may be tested in future, however, given the greater number of telecoms sites which are required as technology develops.

Other considerations

The installation of telecoms apparatus is not only of interest to institutions upon whose property the apparatus is situated. The planning process governing the installation of telecoms masts has been the subject of great public interest generally, not least due to health concerns.

Not all masts require full planning approval. A less stringent "prior approval" process applies to most masts under 15 metres in height, entitling operators to apply to the local planning authority to determine whether the application requires prior approval and, if so, whether or not it is to be approved.



The Telecommunications Masts (Planning Control) Bill received its first reading in the House of Commons in June 2005, and the second reading was adjourned until later this year. This private member's bill seeks to amend existing legislation by requiring operators to provide additional information, for example about the health effects arising from apparatus and the area in which exposure to radiation is greatest. The idea is that planners will be required to take into account such information, and any representations made by the public, when deciding whether or not to approve an application. The Bill also contains specific proposals in relation to educational and medical facilities, in respect of which it is proposed that health concerns should be taken into account in deciding planning applications and in relation to the removal of existing apparatus. Whilst the Bill is keenly anticipated by educational and medical establishments, the likelihood of it becoming law remains far from certain.

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“OPT OUT” FOR PHASE II OF THE EU EMISSIONS TRADING SCHEME

Many HE institutions will have a grudging familiarity with the European Emissions Trading Scheme (EU ETS), which is one of the EU's key policy instruments for reducing Europe-wide carbon dioxide emissions. The EU ETS is a "cap and trade" scheme, whereby EU member states are required to set an emission cap for all installations covered by the scheme. The operator of each installation must have a greenhouse gas permit, and receives an allocation of allowances. Each year, it must surrender a number of allowances equal to the total emissions from that installation during the preceding calendar year, or else pay a penalty. Unused allowances can be traded.

The scheme commenced on 1 April 2005. The first phase runs from 2005-2007, and the second phase will run from 2008-2012. The EU ETS has come in for criticism during phase 1 because of the way in which it applies to so-called small emitters. Ordinarily, the scheme captures combustion installations with a thermal capacity of 20MW or more. However, an aggregation rule states that, in determining whether the threshold is met, the capacity of each individual combustion unit on a site (irrespective

of size) must be added together. If the threshold is met, then all such units are subject to the scheme.

This rule has meant that a number of HE institutions have found themselves subject to the full burden of compliance, such as the need to establish systems for monitoring and reporting emissions, and to submit a verification statement. And, of course, they are subject to the potential cost exposure if actual emissions in a year exceed the allocated allowances.

The UK government has taken these criticisms to heart, and has proposed an opt-out mechanism for small emitters in its draft National Allocation Plan (NAP) for phase 2. The proposed mechanism will enable individual combustion units below 3MW to be excluded from the 20MW threshold calculation. The NAP is subject to approval by the European Commission, but if approved the opt-out mechanism will be welcome to most if not all HE institutions looking to find a way out of the scheme after phase 1 expires. Opting out needs careful thought, however, because if the opt-out requirements are not met, the institution will find itself without allocated allowances at the end of the year, and will have to buy sufficient allowances in the market or else be liable to the penalty payment.

Even with the benefit of the opt-out for

phase 2 of the EU ETS and beyond, education institutions need to be aware of a related development which will be the subject of a consultation from government shortly. The existing UK emissions trading scheme - which is a voluntary mechanism quite separate from the EU ETS - expires at the end of 2006, and HEIs, amongst others, are likely to be subject to its proposed replacement.

This replacement scheme, highlighted as a new energy performance commitment in the government's energy review earlier this year, looks set to be designed to target the large non-intensive energy sector which falls outside of the EU ETS. This sector accounts for over 5,000 large business and public sector organisations with consumption in excess of 3000 MWh/year. One possible design under consideration is a mandatory auction-based emissions trading scheme. The good news is that the scheme is expected to have a "light touch" regulatory mechanism, and be much simpler than the EU ETS. We will keep you informed when further details emerge.

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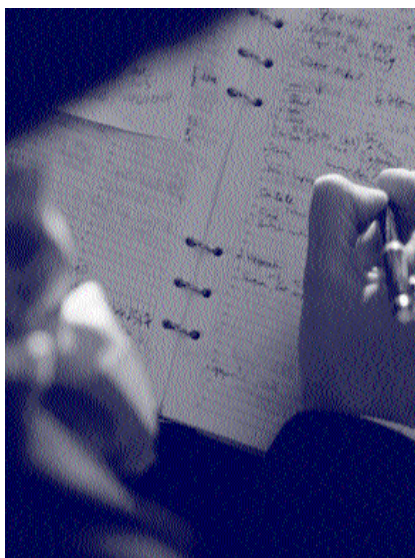
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ANYONE FOR TENNIS, TWICKERS, THE OPERA?

According to the indefatigable Phil Baty (THES, 28 July 2006), receipt of gifts and hospitality by senior staff at Liverpool John Moores University from service suppliers, including its lawyers and accountants, has been queried by HEFCE. The University robustly defended its practice and policy, pointing out that neither HEFCE nor internal auditors had found evidence of impropriety.



Nonetheless, acceptance of foreign trips and tickets for major football tournaments, race meetings and a Robbie Williams concert, apparently notified to HEFCE by a whistle-blower, are said to have been questioned by its head of assurance and audit.

Guidelines for institutions' own policies are contained in circular 99/65, Fighting fraud in higher education, which accepts that staff sometimes receive "conventional hospitality", but recommends avoidance of "substantial offers of social functions", or "meals, tickets and invitations to sporting, cultural or social events". Similar provisions for further education are referred to in the audit code of practice and regularity audit framework. There can be no more spectacular own-goal for legal advisers or auditors than to cause regulatory difficulty for their own clients by the inadvertent application of an inappropriate marketing policy. Of course direct inducements, dishonestly offered and accepted in order to secure and confer a benefit, will be very rare indeed.

But the dividing line between conventional and unacceptably substantial hospitality and gifts may not always be clear, and is interpreted differently as between institutions.

At one extreme, our firm's ring-binders, in which we left promotional material after a tender interview at one of our HE clients, were required to be handed in by the panel for university use. At the other end of the scale, senior figures in education management have accepted invitations to posh corporate events, provided by the firm for its major clients, which they will certainly have felt to be justified in terms of the networking opportunities involved. It is a new experience to be writing in Education Brief about regulatory requirements which we, as well as you, must get right.

Whilst we must never cause embarrassment to clients by offering them inappropriate hospitality, neither do we wish to be known as a hair-shirted outfit whilst our clients are sipping champagne with the competition.

Almost all of the Education Team's marketing budget is expended on workmanlike productions such as Education Brief, the breakfast briefings programme, and presenting at sector events, where a hefty tariff is now applied to would-be speakers by all conference organisers. We undertake some modest sponsorship, according to a protocol, of university and college prizes and funds, and we take advantage of the firm's in-house catering arrangements, which enable us to provide a decent lunch to client representatives who visit the office. Occasionally we sponsor or take tables at clients' own events. Beyond this, the firm does sometimes invite representatives of education institutions to join other clients at "conventional" sporting, civic and social functions. We believe we take into account our clients' own policies and regulatory guidelines as to what is appropriate to the sector. Should you ever feel we have misjudged that, please tell me. On no account will we invite you to a Robbie Williams concert.

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STOP PRESS: VAT & LIBRARY SCHEMES

On 13 September 2006 the University of Ulster lost its appeal against HM Revenue and Customs in relation to supplies made by the company, UU Bibliotech, which operated the University's library services. The company, a wholly-owned subsidiary of the University, operated the library and learning resource centre at the University's campus and charged the University for the library services it provided.

The VAT & Disputes Tribunal ruled that all the supplies made by the library company to the University were subject to VAT at the standard rate.

The University had argued that the majority of these supplies related to books and periodicals and were therefore zero-rated, but this argument was not accepted by the Tribunal.

The decision could mean significantly increased VAT costs for universities with similar structures in place. Universities which operate their libraries on this basis should seek immediate advice in order to mitigate their tax position.

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EDUCATION NEWS

Team news

Jenny Bradfield left Martineau Johnson, and the legal profession, at the beginning of November, to take up the post of Assistant Registrar (Teaching Quality) at the University of Warwick. Jenny was a member of the Education Team since qualifying with the firm in September 2003, and also spent time with us as a trainee. During that time she made a major contribution to the development of our HE and FE practice. We wish her every success in her new career in university administration, where her organisational and communication skills will be equally valuable.

Lynne Franklin has been appointed to the Law Society's Planning Panel. Only solicitors who meet the Society's strict requirements are permitted to join the panel. Lynne will be one of the very few lawyers in the Midlands to have such accreditation. Membership shows that the lawyer is able to advise on all aspects of the planning process and that their skills, knowledge and experience have been rigorously and independently assessed.

New book

The Law of Higher Education, by Dennis Farrington and David Palfreyman, is published by Oxford University Press (price £75, 638 pages), and replaces both the former's work of the same name, and Higher Education Law, edited by Palfreyman and Warner. It comprehensively covers legal questions arising from the governance of HEIs and student, staff and academic issues. There are also summaries of the law of intellectual property as it affects HE, and some aspects of estates, corporate and commercial matters. The new book's panel of consultant editors includes Paul Pharaoh, who remains unconvinced by the authors' view that, following the removal of the visitor's jurisdiction over students in the chartered universities, judicial review continues to be available only in respect of the statutory universities. The book does not deal expressly with the law of further education, but much of its contents will be equally applicable to FE institutions.

Procurement guides

Our Procurement Team have produced EC public procurement guides specifically aimed at education institutions - one focussed on FE colleges, the other on universities and HE colleges.

When universities and colleges are awarding contracts for supplies, works or services, they are required to comply with the EC public procurement rules. These rules regulate the way in which universities and colleges purchase works, goods and services and require transparency, objectivity, equality of treatment of bidders and non-discrimination on the grounds of the nationality of the contractors.

The Guides consider applicable procurement procedures and thresholds, permissible contract award criteria and weightings, timing requirements under the rules, recent changes to the rules, common breaches of the rules and the sanctions that universities and colleges could face for breach. In short, we consider the guides to be indispensable introductions for both universities and colleges to the EC public procurement rules.

To view the guides, please go to http://www.martineau-johnson.co.uk/publication_event/updates.htm

If you would like any further information about this edition of Education Brief, or about our work for education clients, please contact Paul Pharaoh, Partner and Head of Education, on 0870 763 1314 or paul.pharaoh@martjohn.com

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