

HIGHER EDUCATION SERVICES

UNIVERSITIES AND
HIGHER EDUCATION

hcr
harrison clark
rickerbys solicitors



Working with Universities and the Higher Education Sector

Universities and Higher Education providers in the UK form an internationally recognised sector of great significance to the national economy and to the country's scientific and technology research capability.

Being public, private and charitable organisations, as significant employers and as organisations with substantial financial standing in their communities, Universities and Higher Education institutions are required to operate under a complex legal and regulatory framework and have a wide range of legal issues to contend with.

At HCR, we have comprehensive expertise focussed on supporting this sector and are naturally recognised as a leader in the provision of education legal services. More details of our capability are listed in this document.



Who we are

Local – national – international

Our passion for education is at the heart of everything we do. It's the engine that keeps us ticking and inspires us to do our best. We are not satisfied unless we're making a real difference, and we will keep working hard to ensure we achieve the best possible outcome for you.

EducationInvestor Awards 2022

WINNER

Legal Advisor –
to Deal-making

“ HCR are the ‘go to’ experts for all education, employment, contract, commercial and international advice. Having engaged several different firms over many years, we are now firmly committed to working exclusively with the team from HCR. They are highly responsive, pragmatic, appreciate the nuances of complex cases and provide us with excellence advice. They are an impressive team who go out of their way to understand the needs of the client whilst providing impartial and objective advice. The Head of the Education Team, Kristine Scott is phenomenal, but she has also built an impressive team who we trust implicitly.

Client quote, Legal 500

“ Rachel Parkin [Education Team Partner] can be relied upon to provide pragmatic advice and realistic solutions to a range of complex issues. Her education sector expertise is second to none and she has proven to be a trusted advisor throughout some quite turbulent times.

Client quote, Legal 500

“ Rebecca Quinn is simply brilliant – has knowledge across a wide range of areas and lots of sector insight which she can bring to any matter she advises on.

Client quote, Legal 500

“ The outstanding [education law] Partner is Kristine Scott. She is entirely capable of handling any matter in the education, employment or immigration field. She is brilliant at handling clients. She understands the importance of maintaining good relationships so far as possible at the top of an organisation. A real expert.

Client quote, Legal 500

“ Harrison Clark Rickerbys has a single construction team across all of its offices which handles a diverse range of projects in the education, charity, real estate, engineering and energy sectors. Among its clients are commercial and residential developers, manufacturers, contractors, investors, Oxbridge colleges, the Government's housing agency Homes England, national charities, private schools and education trusts, architects and engineers. The practice is led from outside the region, but partner Colin Jones in Cambridge is a key player in high-value projects.

Client quote, Legal 500



Services

How we work with Universities and Higher Education providers

Raising finance for growth

If your institution requires access to additional funding, our Banking and Finance solicitors have the lending connections and expertise to help make the borrowing process as smooth as possible. We can help leverage assets, finance property development and refinance existing debt. With our considerable experience of acting for banks, we understand what the key issues are and how to deal with them efficiently and effectively.

We advise on all types of loan and funding structures, loan agreements, security documents and inter-creditor arrangements.

Members of our Banking, Construction, Property and Education teams recently came together to support a Higher Education college on its aim to deliver a net zero environment by 2030. The Education team advised on the college's existing funding to ensure it was complying with its obligations to the Education Skills Funding Agency. Our Construction team worked with the college's project directorate to put in place all design and build contracts, while our Banking team assisted with the college's funding for the project.

We have recently advised a University in respect of their tender for public funding in order to provide master-level apprenticeship agreements, specific academic course promotion projects and other government-led academic progression programmes.

Commercial contracts and agreements

It is essential that Higher Education providers have sound contracts. Our Commercial team has experience in advising a wide range of education sector contracts – from standard commercial contracts, such as distribution agreements and terms and conditions to specialist research and development contracts.

Members of our Commercial team have provided strategic procurement advice to a University about whether to use a framework or create a bespoke single supplier contract for a campus-wide library software contract.

This included reviewing it from the bidder's perspective to give the client guidance on what the potentially contentious areas were likely to be along with the likelihood of challenges. This work was carried out within a very short timeframe.

We advised another University client on a successful collaboration with a large corporation to establish new commercial income streams. Key commercial terms were advised on, along with an explanation of the risks involved and proposed changes to the contract.

Our Commercial team deal with a variety of education sector licencing and copyright contracts, negotiating with publishers where necessary and advising on the risks associated with remaining warranties.



Governance and regulatory

Growth and change are synonymous with University and Higher Education life – moving with the times is a vital part of moving forward and providing the best for stakeholders in a University community. Our Corporate lawyers are well equipped to advise and deal with needs as your organisation evolves.

Our corporate work for the Higher Education sector includes:

Advising several institutions, including a Higher Education organisation, which intended to join together to form a new entity to promote educational services. We provided an overview of available business structures, following which the client decided to incorporate a community interest company. We are assisting with the establishment of that CIP along with initial filings and will provide a company secretarial service if required.

We have advised a University on the interpretation of its Charter, Statutes and Ordinances in order to determine the approvals required to establish a new operational enterprise. We have expertise to advise on the specific requirements of Higher Education organisations seeking to partner with, or retain an interest in, a new entity. We are also able to advise on suitable corporate structures depending upon the circumstances which apply, including structures such as partnerships or companies.

In your corner

When contentious events occur, access to sector-focussed advice, support and guidance can be critical. Our Dispute Resolution team have worked with a range of Universities and Higher Education providers, dealing with matters ranging from supplier disputes to student debt recovery.

We acted for a London University for a number of years on a variety of disputes including tenant default, and a rights to light claim relating to a proposed major redevelopment of the central London campus. We have advised on the removal of protestors from a Higher Education College's sports ground, on contested commercial lease renewals and issues related to development agreements.

We acted for a University in South Wales to obtain possession of student halls accommodation following non-payment of accommodation fees.

We acted for an Oxbridge University in response to a First Tier Tribunal appeal concerning information withheld under the commercial interests exception of the Freedom of Information Act 2000.

We advised a University in respect of its legal position for both misappropriated payments and how best to recover sums owing, as well as shaping an insurance claim for them. We are working with IT forensic specialists to decide how best to safeguard against a repeated cyber fraud incident including advice to improve relevant processes and controls, and the measures that can be taken to maximise a recovery should the University find itself in this position in the future.

We advised a University in respect of advanced push payment fraud. Emails were diverted from our client to the fraudster, thus allowing them to manipulate correspondence being sent and also to materially change invoices to divert payments to the fraudster's account resulting in significant financial loss to the University.



Managing your team

We support education sector clients on a complete range of employment law issues including advice and support on contracts of employment, staff recruitment, pensions, policies and procedures. We also regularly advise on day-to-day employee matters such as grievances, disciplinary issues, performance issues, sickness absence, redundancy/restructures, discrimination, TUPE, and settlement agreements. We have experience advising on trade union matters and have extensive experience advising on Employment Tribunal claims. Our immigration team can help bring international staff, students, and their families, to the UK.

We assisted an educational institution during a disability discrimination and victimisation grievance. Raised by an existing employee, the grievance was fully defensible, and resulted in an ACAS pre-action conflict claim. Ultimately, the dispute was resolved via a settlement agreement through the Employment Tribunal before a claim was lodged for commercial reasons to avoid management time on defending the prospective claim.

We advised an educational institution on defending a complex sex, race and age discrimination claim. We applied to strike out the claim on the basis that it had no prospect of success. We were successful in persuading the tribunal to order the claimant to pay a deposit in relation to each claim, indicating that they were at risk of paying costs if they continued the claim.

We have experience of working with the unions UNISON and UCU in relation to staff restructuring.

We advised an Oxbridge College in relation to employee worker status. Specifically, we were retained in regard to potential risks that tutors who are engaged from a different college or who are not members of a college, may be deemed to have worker rights for employment law purposes, rather than being self-employed.



Staying on the right side of regulations

Compliance

Universities and Higher Education institutions are as subject to regulatory requirements as any other business and often more so than any other business. Ensuring compliance with regulations – whether that be with regards to the DfE, OfS or CMA more generally, health and safety, finance, insurance, the environment or anything else, our regulatory team are vastly experienced in advising on complex and urgent issues.

We advised a leading examinations board as to a major regulatory investigation. The CEO of the board was required to give evidence before the House of Commons Education Select Committee. We advised the board concerning the attaching of Parliamentary Privilege to answers given to the Committee.

Health and safety

Our team of health and safety lawyers advise a range of clients, from SMEs to charities, schools and international companies. The team handles a diverse workload, including providing advice in respect of an organisation's duties and obligations along with practical advice on putting in place an effective health and safety management system.

We successfully represented a University estates department following a major electric shock accident arising in the course of construction works. The injured parties had life changing burns. Health & Safety Executive investigations lead to a threat of criminal proceedings including a considerable fine. We successfully defended the university, including in terms of its procurement process, and management and co-ordination of contractors.

During and after the Covid-19 pandemic, the health and safety team advised numerous organisations in respect of safely returning to work. In addition to the provision of specific advice given to clients, we ran a number of webinars, without charge, to assist clients with understanding the necessary principles to consider when setting return to work policies.

Providing advice to a Higher Education organisation catering manager on the risks posed by preparing meals for students with known food allergies and pre-packed for direct-sale foods where students with food allergies self-select wrapped products.

Providing advice to a Higher Education institution regarding its student accommodation policies during investigations by the fire service and environmental health office. These investigations arose following fires within student accommodation, blocked fire doors and falls from windowsills due to missing, or damaged, window restrictors.



Insurance

Our established Insurance and Risk team provides comprehensive support across a range of industry sectors. Insurance advice involves an appreciation of relevant risks to be managed and the client's requirements in regard to protection and prevention. This all becomes more complex as the risk environment increases, as it does in the education sector. The consequences of poor risk management can have significant reputational and financial outcomes.

Our insurance and risk advice services for Colleges and Universities are built on considerable sector expertise. HCR has developed a total risk proposition to support organisations meet these challenges. Where instructed our approach will be based on:

Insurance due diligence

A review of a University or Higher Education organisation's insurance cover to ensure that key risks are effectively covered, that limits of insurance are appropriate, that a policy will respond when a claim arises and that the risks posed to cover by harmful exclusions are identified and mitigated.

Crisis management

If a crisis hits, a Higher Education institution risks losing its reputation, revenue, respect, value, and trust, as well as potentially its registration. Through pre-crisis planning, training, and exercising we can support to build organisational capability, confidence, and resilience to overcome the challenge of a major incident. With sound counsel we guide organisations through their crisis response when things go wrong.

Claims defensibility

A detailed understanding of the legal, procedural and claims management processes that help education institutions ensure they are best placed to deal with investigations, and can defend prosecutions and claims.

For the education sector our Insurance team has defended many claims and incidents arising from employers' and public liability claims, abuse, bullying, harassment and stress claims, claims of failure to educate, Health and Safety Executive and other regulatory investigations and prosecutions, inquests and property damage.

Environment and planning

Our Planning, Highways and Environment team advise on every aspect of planning and highways law. This ranges from issues which may be preventing development such as village greens, public rights of way or asset of community value applications. The team is also experienced in advising on challenges to planning decisions in court or in defending enforcement action. Our Environment team advise on nature conservation, water pollution and waste regulations amongst others, as well as acting for clients in bringing and defending legal claims.

Public procurement

Where a University is a 'contracting authority' as defined under the public procurement law regime, there are specific requirements which apply to the tendering of contracts for works, services and supplies. We have specialists who can advise on keeping on the right side of the regulations which apply when it comes to preparing a tender strategy. We can help from the initial advice stage on structure - for example advising on whether to use a framework or draft something bespoke - and timetables, to drafting tender packs, participating in dialogue meetings and helping to evaluate bidders. We also have broad expertise in advising on public procurement challenges to tenders including pre action and in the High Court.

We advised a Higher Education College on the procurement of a new IT system for the management of admissions. A range of procurement options were advised on, including the College's original plan to develop a bespoke tender process. Ultimately the college took advantage of an existing education sector IT framework which saved considerable time and cost.

We advised a Midlands University on the applicable public procurement procedure relating to tendering a social care training contract. The University had established close links with a number of community social care charitable organisations which were in receipt of public grants for relevant education and training. We advised the University on a three-year contract concluded pursuant to Section 7 of the Public Contracts Regulations 2015.





Developing property and land

We advise on all aspects of real estate transactions: from acquisition, development and funding through to asset management and disposal. We have specialist commercial property, real estate dispute resolution, planning and construction solicitors, and public procurement law specialists – so we can take clients through a real estate position, what ever stage the University or other Higher Education body is at.

Our Estate Management and Construction team has advised on numerous university construction projects and are currently advising a Central England University on consultant and contract documentation for a new £25m library and teaching facility project.

Advising on the development of a city centre campus project – including procurement advice, advice in relation to the strategic refinance and planning/highways issues.

Advising on the redevelopment of historic kitchen and related accommodation facilities at an Oxbridge College, including advice on the appointment of the project team, negotiations with the preferred contractor and related documentation.

Our Planning Law team has been integral to development projects for universities. We have recently advised a University on several development projects including the demolition of student accommodation and the redevelopment of the site for residential use. We have also acted for an open-campus University to prepare a strategy to prevent new public footpaths and recreational rights being established.



Avoiding troubled waters

If your establishment gets into financial difficulty, our Restructuring and Insolvency team can help you avoid troubled waters by offering a lifeline. We help safeguard jobs and protect those most at risk.

We have advised a University in relation to directors duties and on insolvency, including in regard to public and bank finance arrangements.

We have advised a number of Universities in regard to a range of insolvency related matters including relating to spin offs and joint ventures.

Global connections

Many University and Higher Education providers have international operations and at HCR we have a strong international practice and relationships to support when it comes to related legal advice.

We are the founding member of LawExchange International, an association of independent law firms covering 31 countries across the globe. We have also developed international hubs being, operations which we have established to provide legal advice in six international locations. We are able to utilise our international network including when Higher Education clients are looking to launch projects overseas.

We acted for a US University on an acquisition involving Canadian, Luxembourg and US entities.

We have advised three UK Universities regarding the establishment of international organisations including a cooperative school in China, an education recruitment agency and on international co-operation and collaboration arrangements.

Added value

We recognise it's important to add value for our clients – you want more than a legal advisor – you want a partner who can help you move forward with the challenges you face.

We provide legal updates to our clients through a variety of events, both online and in person, and newsletters. These cover a range of areas, particularly those affecting businesses, such as banking and commercial issues.

Connections

With a wide range of contacts throughout the UK and the world thanks to our membership of LawExchange International, we're able to connect you with the communities you want to work in and with.

Our contacts range from international companies to start up and early stage tech businesses - so we'll be able to introduce you to new areas of business and point you in the direction of new ideas. Being at the heart of change is a cornerstone of our ethos, and we are dedicated to helping you achieve your goals.

Corporate social responsibility

Giving back to the communities we live and work in is as important to us as it is to you. We're aware that our responsibility goes beyond our office doors – that's why we regularly take part in initiatives which help others.

Our Charitable Foundation has given more than £250,000 since it was set up in 2007 – going to people and causes where they can really have an impact.

We've also committed to net-zero, removing carbon from our operations and wider business activities consistently each year, with an aim to reach a net-zero position by 2040.

HCR Flex

HCR Flex is a model which developed in response to a growing number of organisations who may previously have benefitted from in-house counsel, or now need to top up their in house resource.

With HCR Flex you'll receive reduced day rates and benefit from a long-term resource pool embedded in your business – we'll always have your commercial drivers in mind while being able to reduce your exposure to risk, forewarn you of potential problems and increase turnaround times. You are not bound into a long-term commitment and you can cancel whenever you need. In the words of a current HCR Flex University client, this is a "game changer".

Data Flex

Data Flex is a flexible legal service to support your business and Data Protection Officer or Data Protection Manager with data protection advice. With our agreed rates you pay only when we're working for you. You get the protection and assurance of having a specialist lawyer advising you and supporting your business for a reasonable and flexible fee. Our specialists advise across all aspects of data protection, agreements, compliance and governance including in relation to FOIA and data subject access requests. This expertise also extends to advising in relation to international transfers of data.

Fixed-fee contract review

We also offer a fixed-fee contract review service, tailored to your individual requirements, revolving around a template report. Our lawyers have provided a number of Universities with this service, from advice on the supply of services and goods to distribution and collaboration agreements.

Why choose HCR?

- We are responsive, energetic and give you a view that will move you forward, rather than simply outline your legal options
- We are accessible, you will be able to contact all the people on your team via their mobile number, email and our website
- Our mind set and approach is always to be agile and flexible, but this will be especially useful to you as you adapt to your new situation
- We will be in your corner and on your side, working with you on the next stage of your journey.

NEWSLETTERS

Our newsletters provide thought leadership and legal updates from our experts in an easily digestible format. If you choose to subscribe to them, these are delivered straight to your inbox. All previous issues of our newsletters can be viewed on our website.

Charities newsletter

Insight from our charities team covering the full spectrum, from conflicts of interest and trustee training to restructuring and updates from the Charity Commission.

Restructuring and Insolvency bulletin

Looking at the challenges and changes in the restructuring and insolvency industry from our team of legal experts.

Tech Law

Our team bring the latest news to help you navigate the risks ahead – from data breaches to cybersquatters, NFTs and more.

Webinars

Our webinars are an easy, straightforward way to stay up to date with the latest legal news. These online broadcasts feature our expert lawyers answering the questions which matter most to you, and explain key issues in an accessible way. As with our newsletters, our webinars can be viewed on our website.



Meet our team, part of your team



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