

## Education Matters Webinar: What to expect in the new Academic Year

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Presented by:

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## Today's presenters



**Louise Brenlund | Senior Associate, Brachers LLP**

**Email:** [LouiseBrenlund@brachers.co.uk](mailto:LouiseBrenlund@brachers.co.uk)

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Louise is Head of Brachers Education Sector Team and supports education clients with a diverse range of employment and HR advice as well as providing relevant training and updates.

With experience sitting as a school governor between 2017 to 2021 and from 2021 to date being trustee and director at the Rivermead Inclusive Trust and sitting on the Finance, Audit and Risk Committee, Louise has a good understanding of the needs and requirements of schools and MATs and those working within and for them.



**Phil Reynolds | CEO/Director PLR Advisory Ltd**

**Email:** [philreynolds@plradvisory.co.uk](mailto:philreynolds@plradvisory.co.uk)

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Phil has been the Senior Manager and Head of Internal Audit at a top 25 practice for the past 21 years. Phil is now CFO of a MAT and Director of his business.

Phil is also the Governor at a primary school, experienced the academy conversion process and now forms part of the Finance and Audit Committee.

He also writes for Schools Week and sits on one of the ESFA's finance and assurance steering groups.



## Today's session

- 01 **Merger considerations – due diligence**
- 02 **Key Staff issues – KCSIE, attracting and retaining**
- 03 **Harpur Trust –v- Brazel**
- 04 **Bringing services in house**



## Today's session

05

**Changes to ESFA Academy Trust Handbook 2022**

06

**Governance and financial strength**

07

**Value for money?**

08

**Climate Change**

## Merger considerations

- What is a merger?
- Initial considerations
- Evaluate the positives and negatives:

Pros	Cons
+ improve education standards	- disruptive and timely
+ boost staff and student welfare	- anxieties and objections
+ better infrastructure	- incompatibility/culture clash
+ financial benefits – economies of scale	- reduction in staff

## Mergers – Due Diligence

- What is it and why do it?
- When?
- Process
- Five main areas should be explored:

Educational  
Performance

Legal and  
Regulatory  
Compliance

Organisational

Finance

Commercial

## KCSIE – 1 September 2022

- **Part Two:**
  - Governor support of DSL – expectation to read full DSL job description.
  - Governors and trustees to have safeguarding training on induction and regularly updated.
  - Online safety training. Increased focus on online safety – governors to hold as central to safeguarding approach.
- **Part Three:** Safer recruitment
  - Only accept a CV with a full application
  - Consider conducting online searches. Be careful only for suitability to work with children and not wider!

## KCSIE – 1 September 2022

- **Part Four:** Allegations and safeguarding concerns against staff and contractors
  - Learn from all allegations, not just those concluded and substantiated.
  - You can choose whom low level concerns are reported to but must be clear in policies
  - Ensure covered in staff behaviour policy/ code of conduct.
- **Part Five:** Child-on-child sexual violence and harassment
  - Terminology change from peer-to-peer abuse to child-on-child abuse –ensure policies and documentation changed.
  - Preventative education – values and standards underpinned by behaviour policy



## Staffing figures

(Reporting Year 2021: Published 9 June 2022- School Workforce in England)

- 9 in 10 (87.5%) of teachers qualifying in 2020 remained in teaching one year after qualification
- Rate of entrances to the profession continues to be higher than of those leaving = overall increase in number of teachers
- 44,000 teachers joined the state-funded school sector for 2021/22, up by 2,200 since last year, but otherwise lower than previous years. This represents 1 in 10 (10%) of all qualified teachers.
- There remains shortages and vacancies

FTE of all workforce

**968,079**

5 in 10 teachers, 3 in 10  
teaching assistants, 2 in 10  
other staff

FTE of all teachers

**465,526**

4,400 more than n 2020

FTE number of entrants

**43,981**

Increase of 2,200 since 2020

FTE number of leavers

**36,262**

Increase of 4,000 since 2020

## Attracting and retaining staff

- Methods improving staff retention will attract high quality teachers
  - Teachers need to feel:
    - Supported
    - Valued
    - Manageable workloads
    - Adequate communication structures
    - Professional development opportunities and training
    - Creativity and freedom
  - Teacher wellbeing is in decline:
    - 67% of a recent survey of 3,000 teachers stated their workload was not manageable
    - Only 38% of school staff feel confident in their roles, compared to 79% in the previous year
- (Tes 2022 Staff Wellbeing Survey)
- Consider recruitment marketing strategies – how can you stand out/ consider expectations?

## Harpur Trust v Brazel

- Music teacher employed on a zero-hours term-time only contract. In 2018 claimed for unlawful deduction of wages and underpaid holiday.
- The Trust calculated her holiday using the 12.07% method.
- ET found in favour of Trust. Judgment was appealed.
- EAT found in favour of Brazel – pro-rating not appropriate
- Trust appealed to Supreme Court. The SC confirmed in July 2022 part-year workers holiday pay must be based on average pay.

## Harpur Trust v Brazel

### **Comment:**

- Will impact on term-time only and zero-hours contracts.
- Basing holiday pay on an average of 12.07% is no longer correct.

### **Next steps:**

- Consider how staff are employed
- Assess current methods of calculation
- Consider risks and costs
- Correct and communicate
- Consider how holiday can be taken going forward

## Key considerations – bringing services inhouse

- The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE Regulations)
  - Service Provision Change
  - Automatic transfer of employees
- Considerations:
  - Appointment of representatives
  - Information and consultation with representatives of affected employees
  - Failure can result in an award of up to 13 weeks' gross pay per affected employee (uncapped).
  - Employee liability information
- Practical steps:
  - Consider commercial contacts and splitting liability.
  - Consider structures/ approach to minimise application.



Any questions?

**Brachers**  
With you all the way





## About Brachers' Education Sector team

Brachers is proud of the specialist expertise we have built in the education sector and are privileged to have supported many different educational establishments through times of change, innovation and opportunity.

We have been ranked in the top tier of leading legal directory Legal 500 for our work in the public sector, including education.

Many of our Education Sector team are also school governors, giving us in-depth sector knowledge which enables us to deliver enhanced legal support that meets our clients needs.

This also means we have a detailed understanding of the specific challenges that educational establishments face on the ground, as well as appreciating the key role of governance and challenges that governors can face, knowledge that informs our work and enables us to deliver more valuable legal and business advice.

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