

Bevan Brittan 

# Higher Education

Helping you achieve your goals and aspirations



# Higher Education

**Bevan Brittan has a dedicated Higher Education legal and regulatory team. We focus on what matters most for Higher Education Institutions (HEIs) in terms of the provision of high quality education whilst ensuring financial and commercial sustainability.**

Our extensive HEI market knowledge is applied across a comprehensive range of legal and regulatory services to deliver commercial strength to your organisation, including education law, corporate, commercial contracts, disputes, real estate, regulatory, public law and issues surrounding your workforce.

You can access our legal services either directly or via a range of frameworks including the major London, North Eastern, North Western, Southern and Wales Universities Purchasing Consortia Legal Services Lot 4 (One-Stop Shop).

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Approachable, knowledgeable, committed and effective advisers offering a consistent and excellent service.

**The Legal 500 (Education), 2021**





# Our experience to support you



## Education Law

**Student contracts:** we advise on the impact of consumer law and CMA guidance. We also advise on the importance of pre-contract information, and have provided input into the development of prospectuses and website content.

**Dealing with student complaints:** including complaints to the Office of the Independent Adjudicator (OIA).

**Student disciplinary process:** from policy and rule making; advising on whether conduct meets the threshold to initiate the student disciplinary process; and advising on decision making, in particular from a public law perspective.

**Academic processes:** such as admissions, examination requirements, scholarships and bursaries, and requests relating to extenuating circumstances.

**Reasonable adjustments:** including implementation and any resulting disputes under the Equality Act.

**Charity law:** we advise on compliance with charity law.



## Litigation and Dispute Resolution

**Civil law disputes with students:** including defending alleged negligence and breach of contract claims, Equalities Act 2010 litigation, and Judicial Review challenges. A recent example is: Siddiqui v. University of Oxford [2018] EWHC 184 (QB) – we acted for the University of Oxford in relation to a claim alleging negligent teaching. We successfully defended the claim.

**Claims with third parties:** in contract, tort and public law, including claims brought by suppliers and visitors. We can also advise on ADR and mediation.

## Employment, HR, Pensions and Immigration

**Advice on all aspects of the employment relationship:** including the construction of terms and conditions of employment and relevant legislation. We also input on the drafting and implementation of policies. We have wide-ranging experience of dealing with major HR projects with significant TUPE implications. We advise HEIs on international HR issues in relation to workers on HEI premises overseas.

**Dispute resolution and settlement agreements:** we provide advice on disciplinary and grievance processes, including inputting into investigatory reports; as well as advising on severance payments. We have an extremely broad range of experience in acting in Employment Tribunal proceedings.

**Redundancy agreements:** we advise clients of all types and sizes on how to approach redundancies. We also have specialist experience acting for HEIs including on whether expiry of fixed term funding-linked research posts carries the risk of redundancy and if so, how to manage the potential redundancy and redeployment opportunities in accordance with HEI policy.

**Pension advice:** we have a team of pension specialists who are experts in dealing with the USS and other university pension arrangements, together with pension arrangements which may arise out of service provision changes and TUPE transfers.

**UKVI/PBS:** we advise on existing right to work protocols and report on UKVI compliance, and can provide training and knowledge sharing sessions for EEA staff at HEIs. We also advise on staff and student visas.

## Property and Estates

**Property acquisitions:** we take time to understand what our clients intend to use the premises for, when they would like to take entry, and provide advice in relation to approvals and consents required. We have a wealth of experience in preparing and negotiating the purchase documentation, undertaking all necessary searches, providing reports on title and documents, completing land registry and SDLT forms.

**Property disposals:** when land is being sold we work closely with clients to understand their objectives. For example we seek to understand whether they are looking for a quick receipt, whether conditional offers will be considered and whether they want to include overage. Where appropriate we assist with negotiation of the heads of terms as the sale will proceed much quicker if all commercial issues are agreed at an early stage.

**Property management, leases and licences:** we have an excellent suite of precedents that are applicable to every type of transaction. We also have extensive experience of reviewing draft leases to ensure they comply with the heads of terms and meet your HEIs goals. We take a pragmatic approach on lease amendments and can advise on issues relating to renewal leases and rent review provisions.

**EU procurement and tendering:** we can help, should your university need to carry out an FTS compliant procurement exercise, when procuring a development partner or contractor. We regularly advise on the procurement options available and the advantages and disadvantages in the context of the project and can then advise from the issue of notices through the procurement process.

**Development, funding and PPP projects:** we can assist on development schemes from initial consideration of whether a site is suitable for development (by providing a development constraints report), through to consideration of the type of development partner or contractor, negotiating the property, construction and funding documentation and, if required, agreements with end occupiers. We regularly advise on public/private partnerships.

**Construction precedents:** we advise on the suites of construction precedents required for developments and can tailor such precedents to individual requirements. We also provide advice on the appropriate construction procurement method. We can develop various frameworks to assist in maintaining university properties such as repairs and maintenance, minor works, consultancy frameworks.

**Planning:** we are very experienced in advising on town and planning issues including obtaining planning permission for new developments within an existing estate or providing planning support in relation to acquisitions or disposals. This support ranges from pre-application advice, masterplanning, environmental impact assessments, listed building, heritage or conservation issues to negotiating planning and highways agreements, submitting planning appeals and managing the appeal process.

**Property litigation:** we advise on all types of residential and commercial tenancy and leasehold issues including dealing with possession proceedings, from pre-issue through to enforcement, injunctive relief, access issues, disrepair and hoarding and advising on nominations agreements. Specific experience includes advising a university on a £500,000 dilapidations claim against a commercial tenant and advising on court proceedings to evict trespassers in occupation of a disused university building.

**Construction dispute resolution:** our specialist construction disputes team provide both advisory and dispute management advice for clients across a wide range of sectors. Experience includes mediation and arbitration; we extricate clients from difficult situations as early and as constructively as possible. Where there are wider considerations at play we build these into our resolution strategy and that's why we are relied upon to handle particularly sensitive and complex disputes, as well as those that are more easily resolved.



## Corporate, Commercial, Finance and Corporate Governance

**Joint ventures and partnerships:** we advise HEIs on joint venture vehicles to achieve their commercial and educational objectives, taking into account VAT/tax considerations, funding and risk ring-fencing concerns and regulatory requirements. We can also advise on exit strategies and structuring when joint ventures are collapsed.

**Mergers and acquisitions:** we advise HEIs on both the corporate and education regulatory aspects of mergers and acquisitions in the higher education sector, including both share sales and asset transfers, as well as mergers between institutions.

**Corporate structuring:** we advise clients on corporate structuring including the setting-up of subsidiaries and group structures, the reorganisations of HEI groups, governance, charity law considerations, VAT grouping and tax matters and directors' liabilities and duties.

**Academic collaborations and research grants:** we assist HEIs on academic collaborations and strategic alliances, both nationally and internationally. We can also help HEIs and research bodies with the negotiation of research and development grants.

**Tax support:** our tax consultant has significant experience of working with our corporate team to provide HEIs with practical tax advice, including VAT considerations.

**Finance:** we advise HEIs and investors in the higher education sector on a wide range of finance, funding and banking matters including real estate and project finance, lending, borrowing and investment terms, refinancing, bonds and private placements.

**Corporate governance:** we can support on constitutional matters, OfS registration, OfS reportable events, charity law considerations and the rights and duties of Council members.

**Competition:** we advise on a wide range of competition law matters including both general support relating to preventative actions, policies, training and specific transactional advice.

**Bonds, warranties, guarantees and insurance:** security documentation in all types of building, refurbishment and maintenance projects are particularly important to clients in the context of numerous high-profile contractor insolvencies. We can provide HEIs with robust and commercial advice to provide necessary protection for capital works. We have week-to-week dealings with many insurers and bondsmen in the construction market so we are available to provide up-to-date advice on current positions on risk items.





## Information Law

**Advising on subject access requests:** we advise HEIs on SARs, including from students and staff.

**Advising on FOI requests:** we advise HEIs on FOI requests, including from the press.

**Drafting and reviewing policy documents and advising on GDPR compliance:** such as privacy notices, individuals' rights, policies and procedures and data breach policies and procedures.

**Benchmarking:** we can provide a detailed report benchmarking current practices.

**Reviewing contractual provisions:** we can review and provide advice on information law provisions in template contracts, particularly where data will be transferred across borders.

**Training:** we provide GDPR training bespoke for an organisation for all seniority of employees.



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## IP, IT and Procurement

**Protecting IP:** we advise on the identification, protection and registration and commercialisation of IP.

**Collaborations:** we assist on R&D and the protection of IP within collaboration agreements, particularly where clients are looking to generate an income from their R&D.

**Advice on start-ups and spin outs:** we recognise the importance to HEIs in the commercialisation of research activities through working with academics, investors and industry. We can advise on funding structures and route-to-market initiatives, as well as providing IP support to ensure innovations are fully protected.

**Defending and commencing disputes and settlements:** we regularly advise on disputes and litigation involving IP disputes.

**Procurement:** we work with clients to consider the best method of procurement to meet their objectives and play an active role in the process to make sure they achieve their goals.







## Health and Safety

**Compliance and due diligence:** we advise on the Health and Safety at Work etc. Act 1974, as well as on a wide range of more specific regulations, including those dealing with fire safety, asbestos and legionella. Our aim is to provide our HEI clients with proactive advice, internal training and policies which are easy to understand and quick to implement and adapt. Our specialist team can help ensure clients have the knowledge and robust frameworks in place in order to minimise the likelihood of incidents occurring.

**Enforcement and litigation:** we advise on regulatory prosecutions and defending challenges to regulatory decisions.

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## Health, Care and Regulatory Law

**Collaborations:** we regularly advise on collaboration within the commercial healthcare market. We have, in particular, worked on international projects for the NHS for over ten years.

**CQC inspections:** we have extensive experience of supporting organisations on all aspects related to CQC inspections as part of our wider healthcare regulatory offering.

**Medical law and ethics:** we have a market leading team of specialist medical law experts and can assist with managing inquests, Court of Protection cases, mental health, mental capacity, consent, medical ethics and best interest issues.

**Clinical trials:** we can assist with medical law issues connected to clinical trials as well as commercial matters such as preparation of legal documentation.

**Student welfare and safeguarding:** our team can provide advice on student mental health; disability and special needs as well as HEI's meeting their duty toward care leavers. This includes training, policy formulation and investigative support using a trauma informed approach.

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Helpful, responsive and supportive.

Chambers UK, 2022



# Key contacts

## Education Law and Litigation, Dispute Resolution



Virginia Cooper  
**Joint Department Head for Higher Education and Partner (Education Law and Disputes)**  
0370 194 7991 | 07815 188036  
virginia.cooper@bevanbrittan.com



She provides invaluable support. She is very down to earth and takes a pragmatic approach to complex legal issues.

**Chambers UK, 2022**



Amy Tschobotko  
**Partner (Education Law and Disputes)**  
0370 194 7750 | 07500 044731  
amy.tschobotko@bevanbrittan.com

## Employment, HR, Pensions and Immigration



Ashley Norman  
**Joint Department Head for Higher Education and Partner (HR, Employment and Immigration)**  
0370 194 5430 | 07795 697356  
ashley.norman@bevanbrittan.com



Ashley Norman is incredibly supportive, always on hand. Leaves no stone or option unturned whilst mindful of client budgets. Instils confidence.

**The Legal 500, 2022**



Nigel Bolton  
**Partner (Pensions)**  
0370 194 5446 | 07436 124530  
nigel.bolton@bevanbrittan.com



Anne Palmer  
**Legal Director (HR, Employment)**  
0370 194 8946 | 07917 602216  
anne.palmer@bevanbrittan.com

## Property and Estates



Rebecca Pendlebury  
**Partner (Property)**  
0370 194 5085 | 07789 394359  
rebecca.pendlebury@bevanbrittan.com



Mark Paget Skelin  
**Partner**  
0370 194 7753 | 07774 741956  
mark.pagetskelin@bevanbrittan.com



Andrew Tobin  
**Partner**  
0370 194 7838 | 07795 387884  
andrew.tobin@bevanbrittan.com



Kathryn Lawrance  
**Partner**  
0370 194 8940 | 07917 472894  
kathryn.lawrance@bevanbrittan.com



Mark Robertson  
**Partner (Property Litigation)**  
0370 194 5441 | 07795 568221  
mark.robertson@bevanbrittan.com



Louise Robling  
**Partner (Construction Disputes)**  
0370 194 8924 | 07786 071611  
louise.robbling@bevanbrittan.com



Niamh Batterton  
**Legal Director (Construction)**  
0370 194 5640 | 07551 035238  
niamh.batterton@bevanbrittan.com

## Corporate, Commercial, Finance and Corporate Governance



Rachel Soundy

**Partner (Corporate, Commercial)**  
0370 194 5009 | 07384 468418  
rachel.soundy@bevanbrittan.com



Sarah Greenhalgh

**Partner (Governance)**  
0370 194 5054 | 07500 005219  
sarah.greenhalgh@bevanbrittan.com



Chris Harper

**Partner (Corporate)**  
0370 194 1306 | 07769 690676  
chris.harper@bevanbrittan.com



David Moore

**Partner (Finance)**  
0370 194 7861 | 07584 328523  
david.moore@bevanbrittan.com

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## Information Law



James Cassidy

**Partner (Information Law)**  
0370 194 7863 | 07917 602214  
james.cassidy@bevanbrittan.com

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## IP, IT and Procurement



Ash Woodcock

**Partner**  
**(Commercial - IP/ICT Contracts)**  
0370 194 5081 | 07795 427646  
ash.woodcock@bevanbrittan.com



Wesley O'Brien

**Senior Associate**  
**(Commercial - IP/ICT Contracts)**  
0370 194 3039 | 07813 131977  
wesley.o'brien@bevanbrittan.com

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## Health and Safety



Adam Kendall

**Partner (Health and Safety)**  
0370 194 5030 | 07770 857989  
adam.kendall@bevanbrittan.com



Melissa Stanford

**Senior Associate (Health and Safety)**  
0370 194 5040 | 07825 854039  
melissa.stanford@bevanbrittan.com

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## Health, Care and Regulatory Law



Deborah Jeremiah

**Senior Associate**  
**(Health, Care and Children's Law)**  
0370 194 1748 | 07780 998184  
deborah.jeremiah@bevanbrittan.com



# Recognition



## **Birmingham**

One Temple Row  
Birmingham  
B2 5LG

## **Bristol**

Kings Orchard  
1 Queen Street  
Bristol  
BS2 0HQ

## **Leeds**

Toronto Square  
7th Floor  
Toronto Street  
Leeds  
LS1 2HJ

## **London**

Fleet Place House  
2 Fleet Place  
Holborn Viaduct  
London  
EC4M 7RF

Bevan Brittan is a limited liability partnership registered in England & Wales: Number OC309219. Registered office: Kings Orchard, 1 Queen Street, Bristol BS2 0HQ. A list of members is available from our offices in London, Leeds, Birmingham and Bristol and on our website (which has other regulatory information). Authorised and regulated by the Solicitors Regulation Authority: number 406315. Any reference to a partner in relation to Bevan Brittan LLP means a member, consultant or employee of the firm who is a lawyer.