

Report of the Legal Affairs and Employment Sub-Committee

Two meetings were held on 16 June 2023 and 13 October 2023.

Matters for approval

There are no matters recommended to the Bursars' Committee for approval.

Notes of guidance previously circulated to Bursars (also on the Bursars' website)

Guidance notes or other documents	Minute reference	Date of email
Risk Management of External Events – revised guidance (v2)	16/6, 2b	9 Aug 2023
OIS digest of new PREVENT guidance	13/10, 5	20 Oct 2023
New PREVENT risk assessment template	13/10, 5	20 Oct 2023

Other matters to which attention is drawn

1. Higher Education (Freedom of Speech) Bill/Act 2023

The Bill received Royal Assent in early May and was discussed in detail at the June meeting of the Sub-Committee. Clarity on advice is dependent on sectoral guidance expected from the Office for Students, but there is no clear timetable on its circulation (especially on their expectations on the contents of a Code of Practice, necessary complaints procedures and annual reporting requirements).

In addition, a further iteration (version 2) of the *Risk Management of External Events* was circulated to Colleges, following extensive discussion at the meeting.

16 June 2023, minute 2b, 3
13 October 2023, minute 4b

2. Updated guidance on PREVENT

Related to the above, and following the publication of new guidance from Government (due to come into force towards the end of the calendar year), the Sub-Committee approved the circulation of a digest of contextualised guidance and a new risk assessment template for Colleges, prepared by OIS.

13 October 2023, minute 5

3. Expulsion of students and the professionalism of disciplinary/complaints investigations

The Sub-Committee noted the development of a proposed programme of work in this area and the matters that might require external legal advice. It noted that some considerations required close working with the University. The programme would include:

- a) amendment of College and University governing instruments to facilitate, where deemed necessary or appropriate, the concurrent temporary or permanent removal of students either from membership or from premises.
- b) development of clear guidance on such cases on how to navigate the implementation of such recommendations.
- c) development of guidance and/or training to support the professionalisation of investigations relating to allegations of harassment or misconduct (including, but not limited to matters including: provision of clear procedural statements and guidance to complainants and defendants, production of secure statements from complainants, defendants and witnesses; appropriate record-keeping and retention times; avoidance of real or perceived conflicts of interest; separation of investigatory powers and provision of pastoral support).

- d) provision of clear guidance on the appropriateness of the sharing of personal data between separate legal entities.
- e) consideration of the outsourcing of such investigations to preferred third party providers, which may or may not be the University (i.e. OSCCA).

16 June 2023, minute 5

4. Renters (Reform) Bill

The Sub-Committee noted the introduction of new legislation, presented Parliament on 17 May 2023 which may have implications for Colleges, in particular relating to the definition of Colleges acting as managers of student accommodation and/or as private landlords. The latter category was expected to be caught within the remit of this legislation and likely to include Fellows' accommodation. It agreed to keep a watching brief on development and discuss this at a future meeting when further information is available, noting that significant amendments to the current Bill were anticipated.

16 June 2023, minute 8

5. Safeguarding training for undergraduate interviews

The Sub-Committee noted that the Director of Undergraduate Admissions had highlighted the requirement for Colleges to ensure that all undergraduate interviewers receive suitable safeguarding training, including guidance on disclosure reporting. It noted the existing (2020) guidance to Colleges about suitable safeguarding measures, and endorsed its currency. It also agreed to highlight to Colleges the need for personnel in Colleges having contact with students to be made aware of the existence and identity of the College Safeguarding Lead and the reasons why they may need to contact them: a note of guidance will be reviewed at its next meeting.

13 October 2023, minute 7

6. Employment Justified Retirement Age

The Sub-Committee noted a University online survey to feed into its EJRA Working Group, which had also held two Town Hall meetings and a number of surveys. It noted that it was still the intention for the outcomes of the review to be presented by Easter Term 2024, dependent in part on the timely receipt of HESA data for benchmarking purposes.

The Sub-Committee noted that OIS had received requests from Colleges for the commissioning of external legal advice for all Colleges on the issue, in the light of the University's current consideration of the matter, and will consider what general legal advice might be helpful at its next meeting.

13 October 2023, minute 10b

7. Progress of the University's revision of its staff-student relationships policy

The Sub-Committee was updated on progress to revise substantially the current staff-students relationships policy:

<https://www.hr.admin.cam.ac.uk/policies-procedures/personal-relationships-between-staff-and-students-policy>

It noted that this work was ongoing but would likely be confirmed early next Term.

13 October 2023, minute 11f

8. HR Forum: development of EDI training provision for Colleges

A Working Group had been meeting to consider training and development needs in relation to equality, diversity and inclusion (EDI) issues, which was happening concurrently with a University review of its on-line provision. The developing work was concentrating on more nuanced training in the circumstances and situations that College personnel may need to have, influenced as that is by Colleges being a living (as well as a working/studying) environment, and would likely result in a tender proposal. The Sub-Committee agreed that it would be helpful for the Working Group to make appropriate links with the Bursars' General Purchasing Sub-Committee, and Helen Hayward has agreed to be that link (as well as a further link to this Sub-Committee).

13 October 2023, minute 12

9. Salary and stipend surveys

Bursars are asked to make sure the surveys are being completed and checked before submission to OIS by the end of Term

Dr M Russell
7 November 2023

Report of the Legal Affairs and Employment Sub-Committee

Two meetings were held on 24 November 2023 and 26 January 2024.

Matters for approval

There are no matters for approval.

Notes of guidance previously circulated to Bursars (also on the Bursars' website)

Guidance notes or other documents	Minute reference	Date of email
Impact of Higher Education (Freedom of Speech) Act 2023	24/11, 5	4 Dec 2023
Charity Commission guidance on social media policies	24/11, 6	4 Dec 2023
Safeguarding Expectations	24/11, 2a	14 Dec 2023
Public articles referencing the Employer Justified Retirement Age	24/11, 9a	13 Dec 2023
National Minimum Wage and College-owned rented accommodation	26/1, 6	6 Feb 2024
Induction and training on charity trusteeship	26/1, 9c	6 Feb 2024

Other matters to which attention is drawn

1. Priorities of the University's HR Division

The Committee were advised that the HR Division were working on the following policies and projects:

- Remuneration benchmarking for both academic and professional staff, including a reflection on cost-of-living rises.
- Review of current maternity pay provisions, noting they were less generous than other Russell Group universities.
- Consideration of whether to pay international workers' NHS surcharge costs.
- Review of the current Employer Justified Retirement Age (EJRA) policy, with proposals to the Regent House expected towards the end of Lent Term 2024.
- Finalisation of the revision of the staff-student relationship policy, likely to be launched in the Easter Term 2024.
- Development of "Death in Service" guidance for staff.
- Review of Equality, Diversity and Inclusion policies and values.
- Independent review of the Learning and Development function.

24 November 2024, minute 11
26 January 2024, minute 3

2. Brand protection issues

The University's Head of Brand and Trademark, Andrea Ward presented her current approach and strategy to the Committee and the recent actions being taken to protect the "Cambridge" brand, including the protection of trademarks. The Committee noted that the University's trademarking of "Cambridge" had been a long-standing concern and it re-activated its Working Group to work with Andrea on the development of a light-touch licencing agreement that might be adopted by all Colleges to resolve the impasse.

Separately, the Committee received a number of documents and resources, which it felt could be worked into a "branding toolkit" by the University, for Colleges to use as a helpful resource when marketing their own activities and those of commercial events held on their premises.

Finally, the Committee was also provided with a copy of a template letter being used by Andrea Ward in conjunction with CUDAR for alumni who might be trading using the “Cambridge” name or brand. This information would be provided to College Development Directors and Heads of House.

24 November 2024, minute 3

26 January 2024, minute 10

Dr M Russell

21 February 2024

Report of the Legal Affairs and Employment Sub-Committee

Two meetings were held on 8 March 2024 and 3 May 2024.

Matters for approval

There are no matters for approval.

Notes of guidance previously circulated to Bursars (also on the Bursars' website)

Guidance notes or other documents	Minute reference	Date of email
Code of Practice regarding elections and canvassing	8/3, min 14	28 May 2024
Statement on Cambridge Rowing Ltd	8/3, min 16	8 Mar 2024
Colleges' template of a Code of Practice on Freedom of Speech	3/5, min 12	3 May 2024
Accepting, refusing and returning charitable donations	3/5, min 13	28 May 2024

Other matters to which attention is drawn

1. Charity responsibilities and advising College student unions and their officers

The Sub-Committee reviewed its 2022 guidance to Colleges on the management of student unions and societies and – separately – received a request to consider creating guidance to help Colleges induct the officers of College student unions (having helpfully received a document produced by Balliol College, Oxford). It has agreed to produce two revised documents (but this work has yet to be completed by OIS).

In the meantime, the Sub-Committee wishes to draw attention to Section 22 of the Education Act 1994, which requires Colleges to “take such steps as are reasonably practicable to secure that any students’ union... operates in a fair and democratic manner and is accountable for its finances”. The Act then outlines the following requirements of the governing body of the College in addressing this duty, including:

- a written constitution for the students’ union, reviewed at least every five years.
- a mechanism for students to opt-out of their students’ union, in such a way as to not be denied access to services.
- the election of students’ union officers by a secret ballot, in a fair and properly conducted manner, and for the candidate to hold sabbatical posts for not more than two years.
- approval of the students’ union budget and monitoring of its expenditure.
- ensuring that the students’ union publish financial reports at least annually, which shall include lists of external donations or affiliations of the students’ union.
- a complaints procedure relating to the students’ union.
- a published Code of Practice setting out all of the above.

Pending the revised guidance, Bursars are advised to review whether their College is meeting these Section 22 requirements.

8 March 2024, minute 11

2. Revised protocol for the commissioning of external legal advice

This item is elsewhere on the Bursars' Committee agenda (6 June 2024).e Sub-Committee discussed this at both of the previous meetings were advised that the HR Division were working on the following policies and projects:

8 March 2024, minute 12

3. Cambridge Rowing Ltd

The Sub-Committee was notified that the University was currently engaged in a legal challenge to a trademarking application by Cambridge Rowing Ltd. A statement requesting Faculties and Departments to refrain from entering into any commercial arrangements with the company has been shared with Bursars.

4. Employer-Justified Retirement Age (EJRA) proposal – implications for Colleges

The Sub-Committee received advanced notifications of the outcome of the University's EJRA Review and discussed the potential implications for College (following its earlier review of the year). The Sub-Committee is currently of the view that the commissioning of any external legal advice on this matter collectively for Colleges may need to wait until the outcome of the University's Ballot is certain and, even then, is likely to require Colleges to seek individual advice on their precise position following that outcome. It noted the primary concern and question raised by Colleges related to persons who were simultaneously office-holders (Fellowships, and other specific College roles) and employees/workers (ranging from full-time to casual employment).

It concluded that there was merit in seeking to offer a Colleges-wide session, primarily for Bursars and HR Managers, on the rights of office-holders and how they differed to employees and workers, particularly in the context of a Cambridge College, and would make some enquiries about a suitable presenter for such a topic.

3 May 2024, minute 10

5. Impact of the Higher Education (Freedom of Speech) Act 2023

The Sub-Committee received and approved a "Colleges' template" for a Code of Practice on Freedom of Speech, noting the provisions of the Act and recently-issued draft guidance of the Office for Students.

Attention is drawn especially to the accompanying guidance note, which highlighted a number of other College policies and procedures that may require review following the publication of the Office for Students guidance in due course.

3 May 2024, minute 12

Dr M Russell
28 May 2024