

# Schools: Safeguarding your reputation



***“For the education industry, reputation is all. Lose that, and you could well lose everything”***  
**- Education Investor\***

The reputation of any school or educational institution is of paramount importance. However, in our experience many are not equipped to handle a reputational crisis. Schools need the support of experts who can safeguard their interests and help to devise strategies aimed at minimising reputational harm whilst recognising a need to be transparent, have good governance and communicate effectively with parents and others.

The nature of the reputation and how and why it is affected may vary depending on the type of institution in question. Though none, whether a state-funded primary or one of the major brands in the estimated \$38.5billion international schools market, can afford to be complacent about looking after it.

A threat of reputational harm is an issue which many schools now include on their Risk Register. There is, of course, no way to avoid being caught up in a crisis but there are legal steps that organisations can take to minimise the threat, by striving to ensure media commentary is accurate, that it respects privacy and confidentiality and that the online community does not fuel harmful or malicious speculation. We outline briefly in this brochure some of the ways in which Harbottle & Lewis can help a school facing a reputational challenge.

\*Source: Education Advisor; Leader article 29 August 2013

# Our Media and Information Group

Over the past few years, we have helped a number of schools and educational institutions facing a reputational crisis. Our work in this area has been varied and we outline some of our case studies below. We recognise that when a crisis arises there is a balance to be struck between keeping the right people properly informed whilst respecting ongoing investigations, the rights of pupils and staff, and the need to act to protect a school's reputation.

Around 90% of the work we are involved in is preventative and carried out 'below the radar'. Our practice naturally involves providing fast and intelligent legal advice in a crisis or when the reputation of an individual or an institution is under threat. However, we do significantly more than that. We take a long term view of a client's aims and help them to achieve those aims, protecting their information and business reputation from diverse risks both from the media, social media and from other quarters in the UK and abroad.

We are not lawyers who specialise in education law and we are very happy to work alongside your existing advisers to add specialist expertise in our field. We routinely work with other lawyers, public relations experts and crisis managers as part of a client's integrated team.

We can advise you on:

- Responding to threats to publish inaccurate or damaging allegations or private and confidential information, including enquiries from the media, on short notice and out of hours
- Concerns arising from statements made on social media or otherwise by school employees, parents or pupils which cause harm or distress to others
- Responding to misleading or concerning enquiries in connection with unforeseen crisis events, such as police investigations, or accidents, and halting the spread of misinformation in those circumstances
- Leaks of confidential or sensitive data and the legal and reputational consequences of data loss
- Protecting personal information and preventing intrusions into your employees' or pupils' private lives
- Securing the takedown of material from websites, blogs, social media sites, search engines and other online platforms
- Obtaining apologies, corrections and damages awards in relation to the publication of unlawful material
- Responding to complex or sensitive data subject access or freedom of information requests
- Responding to investigations
- Communicating with others, such as Trustees or parents, in terms which avoid a high-risk of liability when it is necessary to disclose sensitive information

Where applicable, we are able to help with advice on the legitimate use of funds for schools wanting to seek legal advice on reputation and the Education Funding Agency guidance on the topic.

For UK institutions with an overseas presence or contemplating global expansion, they face additional regulatory requirements for the transferring of data and protecting intellectual property. We can help in these areas too.

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## Our experience in practice

Confidentiality and discretion are our core values. For this reason we do not publicise our work for named clients in this area and our experience referred to here is generic.

### CASE STUDY

#### Acting for a leading Academy Schools Trust in relation to false allegations published by a national newspaper and advising on Freedom of Information requests made by journalists

We were instructed by a leading Academy Schools Trust following the publication of false allegations about a school and its Chief Executive in a national newspaper. The allegations were partly the result of an unlawful data leak of confidential emails which had been obtained by a journalist. Certain statements contained in the emails had been taken out of context in an attempt to support a story which was untrue.

We complained to the newspaper in respect of the allegations on the grounds of defamation and irresponsible journalism, and dealt with their enquiries in the context of further stories and tweets by their journalists. Working with the key individuals concerned we acted quickly to establish the factual position (including the review of detailed documents and emails), advise on the legal position and formulate an ongoing strategy to limit any further reputational damage.

As part of the newspaper campaign, the Trust received various Freedom of Information Act requests. We advised on the obligations under the legislation, applicable exemptions and how best to respond given the wider context. We also advised on the data leak and the action which could be taken against the ex-employees responsible.

The allegations made by the newspaper caused Ofsted to initiate an independent review, which included the client's key staff being interviewed. We guided them through the review process to ensure that it was a robust but fair process and helped to put together evidence in support of their position. Ofsted published a report which exonerated the Trust and its staff on the key claims that the newspaper had published. We made further representations and the newspaper was forced to amend its online archive of earlier articles to reflect this outcome.

### Recognition

“The key point is their success at being able to minimise potential damage to clients.”

Reputation Protection  
Chambers & Partners 2016

### Recognition

“There are a lot of good firms but Harbottle have a certain calibre of clients' highlights one source 'The speed of response is second to none'.”

Chambers HNW 2016

### IN BRIEF 1

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A national newspaper working in conjunction with a current affairs documentary programme approached our client, an Academy Trust, proposing to disclose the salary and benefits received by its CEO and alleging that this use of public funds was wasteful. The newspaper had obtained the information from submitting a Freedom of Information request. We engaged with the newspaper raising legal arguments as to why publication of the information would amount to a misuse of the CEO's private information, given that the newspaper's premise was wrong, there was no impropriety of any kind and therefore no public interest. As a result, neither the client or its CEO were referred to in the media coverage, which concentrated on other school Trusts.

### Recognition

**“Harbottle & Lewis LLP is ‘top of the tree’ for reputation management’.”**

Defamation & Privacy  
The Legal 500 UK 2016

### IN BRIEF 2

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We were instructed by a college in relation to false allegations which had been posted on social media by a former teacher. The individual had contacted students directly through social media in breach of the college's safeguarding policy, and threatened to speak to the media. Our advice to the college included how to engage appropriately with that individual to prevent further statements, yet still welcome any legitimate 'whistleblowing' disclosures. Following our engagement, the postings were removed from Facebook and Twitter and the individual did not go to the media.

### IN BRIEF 3

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We have acted in relation to numerous contentious Freedom of Information Act requests made of Trust organisations which run groups of Academy schools. A number of such requests were made by national newspaper journalists as a prelude to publication of sensitive articles. We advised on the obligations under the Freedom of Information Act, applicable exemptions and how best to respond strategically given the wider context.

## Key contacts

If you would like any further information about how we may be able to help your school, please contact one of our Media & Information Group partners.



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