

Public Sector Legal Services



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Introduction

Bevan Brittan is a UK-Top 100 national law firm providing legal and advisory services to central and local government, NDPBs, the NHS, social housing, regulatory bodies and the full range of entities working under this Framework.

Our practice consists of over 90 Partners, 300 lawyers in total and over 530 staff, from our offices in Birmingham, Bristol, Leeds and London - reflecting the nationwide location of clients and markets.

We act for an exceptionally broad range of public sector and regulatory clients including over 120 local authorities every year and 60% of NHS Trusts. We have also worked with the NHS since its inception and act for 8 of the 10 largest Housing Associations in the country.

Our clients really value our breadth of experience across complementary sectors, enabling us to realise our clients' objectives through our understanding of the sectors they work in and what can and cannot be achieved in terms of regulatory and governance structures.

Our clients demand legal experts that know their markets inside-out and are able to provide high-quality, strategic legal advice that demonstrates market understanding and anticipates their needs. To ensure we deliver that legal and regulatory advice within the context of our clients' ever-changing market, we invest time, resource and research, whilst working with industry leaders to maintain our cutting-edge knowledge for the benefit of our clients.

Underpinning how we advise and support our clients are our values - they are core to our business and provide a sense of our personality and how we work with our clients to become their business partners.



As a responsible business the values shape the decisions we make and how we work with our clients, with each other and the contribution we make to the wider business communities that we are part of.

Key Framework Contacts

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Administrative & Public Law

Administrative and Public Law lies at the heart of our practice areas for public authorities and we operate in cross-disciplinary teams to combine top level public law expertise with sector knowledge. Our work involves advising on governance and vires issues, as well as policy development and decision making; working with clients to mitigate the risk of potentially controversial projects or decisions being challenged. We are specialists in judicial review proceedings, providing strategic advice with a view to securing the optimal outcome bearing in mind reputational, cost and resource implications.

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Charity Law

Our charity law team has in-depth expertise in advising charities and other organisations dealing with charities on the full range of charity law matters including governance, land, constitution Charity Commission regulation and engagement, commercial activity, collaboration and joint ventures, and mergers.

Key personal



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Children and Vulnerable Adults

We advise public authorities on commissioning and delivering care/support to children and young people; including Parental Responsibility, distinguishing between parental control restrictions vs. deprivation of liberty/interferences with human rights, s20/s25 Children Act accommodation, managing social/familial/sexual contact, disclosures and information governance, Court of Protection/Inherent Jurisdiction proceedings and safeguarding. We assist with joint agency working between health, education and social care, especially through transition from child to adult services.

We advise on responsible commissioner disputes and overlap between the Special Educational Needs and Disabilities (SEND), Care Act, s117 aftercare Mental Health Act and NHS Continuing Healthcare arenas. We have a broad spectrum of experience in advising on health and social care commissioning specifically within children's services and for vulnerable adults. We act on high level complex outsourcing, partnering, and multi-authority collaboration arrangements, as well as the establishment of alternative models for the delivery of children's services.

Key personnel



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Case Study

We have assisted on the establishment of Children's Trusts pursuant to Statutory Directions issued by the Secretary of State for Education under the Education Act 2006. We advised an NHS CCG regarding a Spanish-national young man of Russian descent who presented with significantly challenging behaviours transitioning to adult services, where his residential school has served notice and the local authority with ordinary residence responsibility intends to cease to maintain his EHC Plan. We advised the CCG on commissioning responsibility, its interaction and involvement with the SEND Tribunal and Pilot, its procurement exercise (including NHS England grant application under the Transforming Care Agenda) and regularisation of the significant interferences with his human rights through the Court of Protection.

Commercial

Our large team of Commercial lawyers provides a comprehensive range of services to clients across all our industry sectors. From strategic level guidance to achieve business goals, through navigating legislative and regulatory frameworks to day-to-day support for in-house legal teams, our overarching aim is to ensure our client receives the level of commercial support it needs and expects.

Our specific areas of expertise include:

- Joint ventures, commercial ventures & partnerships
- Corporate mergers & acquisitions
- New models of care provision in the NHS
- Outsourcing & shared services
- PFI/PPP contract renegotiation & termination
- Information technology

Key personal



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“

Bevan Brittan have been incredibly responsive and dedicated to meeting our objectives

Chambers, 2023

Contracts

We advise on all aspects of contract law; drafting, negotiating, enforcing and addressing termination and exit liabilities across all sectors. Steeped in complex Public Private Partnerships, Private Finance Initiatives and outsourcing contracts, we also advise on commercial activities including goods, works and services. We are familiar with public sector commissioning and procurement strategies that require a range of contracts from outsourcing, commissioning, shared service arrangements and joint ventures to concessions, grants and other arrangements such as payment by results contracts.

Our experience includes supporting contract management activity to deliver a variety of objectives such as service improvement; cost reduction; generation of income; and demand management. Recent issues include engaging supply chains and ensuring social value as well as managing provider default (including insolvency). Our extensive sector range covers regulated public infrastructure such as energy, waste, digital, telecommunications, transport and regulated public services such as health, education, housing and the environment.

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Corporate Law

We advise on all aspects of company law, structuring and transactions, often as part of larger cross-disciplinary teams. We represent buyers and sellers of shares/assets, central/local government, NHS, public private partnerships, housing associations, individuals, major corporates, charities/NFP, investors, investment funds and banks. Our experience includes mergers and acquisitions, exit strategies, structuring/establishing joint ventures (regeneration/property development, waste/energy, education, health and housing) and wholly-owned delivery vehicles, children's trusts, group restructurings and fund investments. We are often called to advise on sensitive corporate governance and directors' duties issues.

Key personnel



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Data Protection and Information Law

Information is vital for all organisations and the legal and reputational risks associated continue to grow in complexity. Our dedicated information law and privacy team provide advice to a wide range of clients from all sectors on their obligations under the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR). The team advise clients on all aspects of data protection compliance including commercial and contractual advice, data rights requests, data sharing agreements, data breaches, litigation and Data Protection Impact Assessments (DPIAs). We work with clients to conduct UK GDPR audits, provide training and draft template documentation. We also advise of the Freedom of Information Act 2000, the Environmental Regulations 2004 and the common law duty of confidence.

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Education Law

Our team of education lawyers advise local authorities on various education law issues including:

- School funding and grant arrangements;
- Policies relating to schools (e.g. we provided policy advice on the delivery of Covid-19 vaccines in schools);
- Academy arrangements and conversion (including disputes and contractual matters);
- School transport, including changes to policies and consultation;
- Special educational needs (SEN) and Education, Health and Care Plans (EHCPs); and
- Safeguarding.

We regularly advise the Local Government and Social Care Ombudsman on complaints involving Special Educational Needs and Education Health Care Plans. We also act for a range of universities on education law matters including equality and diversity; reasonable adjustments; student complaints; student contracts and consumer law issues; disciplinary and academic processes; and exchange and collaboration agreements.

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Employment, Pensions & Immigration

We provide employment advice to clients across the public sector including local and central government, Fire Authorities, housing associations, the Police, NHS, charities and education bodies. Our TUPE expertise is a major strength; advising on ground-breaking models for shared services, Teckal companies, s75 arrangements, outsourcing, insourcing and frameworks. We have an outstanding record in Employment Tribunal proceedings, acting in many seminal cases at all levels of appeal. We advise on all aspects of employment law including: contracts and collective agreements including nationally negotiated terms such as National Joint Council and Agenda for Change; discrimination and equal pay; industrial action; redundancies; terminations and settlement agreements; whistleblowing; pensions; and immigration.

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Bevan Brittan have superb strength in depth, they run their cases immaculately, they're passionate about what they do and they achieve great results for their clients

Legal 500, 2023

Energy, Natural Resources and Sustainability

Our multi-disciplinary legal and regulatory team can help you meet your commercial and Net Zero objectives, including:

- Renewable Energy – solar, wind, biomass, hydro, marine
- Energy Innovation – energy and battery storage, hydrogen
- Energy from Waste – carbon capture, CHP, ATT
- Transport – electric vehicles, charging infrastructure, low carbon fuel
- District Energy – heating, electricity, cooling
- Energy Efficiency – domestic retrofit
- Energy Digitalisation – smart grids, data
- Nuclear and conventional power – gas, coal, oil, fracking

We advise clients on developing and funding energy infrastructure – including on all the property, planning, permitting, grid connection, construction, corporate, banking, public law, power purchase, carbon trading, emissions and regulatory matters. We also assist on resolving disputes which might arise during the construction or operational phase of an energy asset.

Key personal



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The team comprises genuine leaders in their field. Its energy practice in particular is market leading. Individuals within the team go the extra mile to really ingratiate themselves within our business team

Legal 500, 2023

Finance and Investment

Our banking and finance team are specialists in development, project and mixed source finance for lenders, local authorities, housing associations, education providers and other bodies engaged with the public sector, advising upon:

- Funding wholly owned development subsidiaries and joint ventures;
- Sourcing and defraying central government grants and repayable funding;
- Investment into third party energy and infrastructure schemes;
- Raising funds via capital markets (both public bond issues and private placements);
- Off balance sheet funding structures, such as sale and leaseback deals;
- Derivative transactions, and vires, charity, subsidy control and governance issues.

Key personnel



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Governance

Good corporate governance, managing risk and compliance is at the core of any well-run organisation – whether within the public sector, a small and medium-sized enterprise or multi-national business. Healthy organisations begin with strong corporate governance, a Board or Senior Leadership Team that has collective responsibility for strategic direction and full knowledge of the day to day running and decision-making within the organisation.

Within an increasingly regulated environment the Board and Senior Management Team have ultimate responsibility for providing a safe working environment, ensuring compliant services and products, meeting requirements for data handling, environmental and health & safety standards and also being a responsible employer.

Key personnel



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Health, Care & Regulatory Law

We support health and social care providers to fulfil their obligations to their service users. We help them navigate human rights, equality and professional obligations. Our specialist services include inquests and inquiries, CQC and other regulatory prosecutions, mental health, family law and Court of Protection applications, continuing healthcare arrangements and all issues arising from care for vulnerable service users. Our experience in working with the public sector means we can offer a constructive service, which understands the business environments they operate in.

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Health and Safety

Our Health & Safety/Criminal Regulatory led by Adam Kendall advises on health and safety; fire safety; environmental; trading standards and waste licensing issues. In particular, the team have a wealth of experience in advising and assisting government bodies and other public sector clients and regularly provide training seminars and workshops to Boards.

Key personnel



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Case Study

The Health & Safety Team represented Reading Borough Council on its successful prosecution of Arcadia Group Ltd and Topshop/Topman Ltd for breaches of health and safety offences following the death of a 10-year-old boy in a retail outlet. The prosecution arose following an incident in Reading in 2017 when a queue barrier (weighing about 110kg) toppled over in store fatally injuring a boy. After an extensive investigation and trial, a jury found both Arcadia Group Limited and Topshop/Topman Limited guilty of breaching health and safety offences. We worked alongside the Council's in-house Environmental Health Team and advised the Council throughout an extensive and detailed investigation into the incident. This included undertaking and supporting on the evidence gathering (over 90 witnesses and a number of experts); a large scale disclosure exercise and also on a number of complex jurisdictional challenges around authority to prosecute. Bevan Brittan also supported the Council both on the inquest and the formal prosecution stage including throughout the 10-week trial which culminated in the guilty verdicts. At the sentencing hearing, Arcadia Group Limited and TopShop/Topman Limited were each fined £650,000 and £350,000 respectively for their breaches (amounting to a combined fine of £1million). Each were also ordered to pay £530,000 in respect of the Council's costs.

Intellectual Property

We advise on all aspects of intellectual property (IP) law both from the development of IP (including within joint ventures or other similar collaborative research and development projects), the protection of IP (whether through registration or other forms of protection), the exploitation of IP through to enforcing IP rights against third party organisations who are infringing on such rights.

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Litigation and Dispute Resolution

We act for public sector bodies across health, local and central government as well as regulators and ombud schemes. We provide a full services litigation offering covering contract disputes, complex ICT disputes, defamation and harassment claims, financial services, negligence and fraud as well as public law challenges. The team have a wealth of experience advising clients on all forms of alternative dispute resolution including mediation, adjudication, arbitration and expert determination. We also have specialist experience of acting on collective actions advising large groups of clients and can advise on funding options.

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Case Study

We advise local authorities regarding waste contracts. On one particular matter, we advised the four waste collection authorities in dispute with a waste collection services provider. The value of the claims and counterclaims exceeded £20m and related to a variety of issues around performance, the accuracy of pre-contract information provided and TUPE issues. The dispute raised complex issues including the statutory obligations of waste disposal authorities and the interaction with a separate Private Finance Initiative contract relating to the processing of waste in the region.

Planning and Highways

As a highly experienced planning team we advise on all aspects of planning and environmental matters and in bringing forward applications for development so as to minimise the risks of legal challenge. This includes providing advice on the redevelopment of historic buildings, auditing environmental statements and the application of EU directives. We have a particular expertise in unlocking brownfield land for development including progressing compulsory purchase orders that assist in the delivery of redevelopment and regeneration schemes and dealing with difficult highways, rights of way and town green issues.

Key personnel



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Primary Care

We have extensive experience advising clients on all areas of primary care law, regulation, policy, funding, commissioning and contracting. We provide specialist multi-disciplinary advice across our corporate, commercial, regulatory, employment, clinical risk and claims, and real estate teams. Our clients include: primary care providers, general practitioners, GP federations, Primary Care Networks, dentists, pharmacists, commissioners and funders.

Key personnel



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Property and Construction

In addition to providing advice on all aspects of property, real estate and construction, we are currently advising on some of the biggest regeneration projects active in the market. We provide a full service offering on major construction and infrastructure projects across health, education, leisure, highways, energy and housing including procurement strategy, contractual and security documentation and support and strategic input.

Key personnel



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Case Study

We advised the London Borough of Havering in connection with the redevelopment and renewal of 12 sites in Havering including the large Waterloo estate, adjacent to Romford which will result in more than 3,000 new houses being delivered. This is a once-in-a-generation project for the Council which is looking to provide more, better affordable housing within its borough. We advised the Council on the procurement of a development partner, and this involved a wide range of skills including title issues; vacant possession; appropriation; CPO; a suite of construction and development documentation; all as part of an efficient procurement process.

Public Procurement

We provide a full service offering and end-to-end support in planning and conducting public procurement exercises from soft-market testing; developing procurement documents (prequalification criteria; tender evaluation criteria, and procurement and contractual documents); bid clarifications and tender evaluation; debriefing unsuccessful bidders, managing challenges including strategy and High Court representation.

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The team's knowledge and approach was second to none. I had complete confidence in their advice

Chambers, 2023

Subsidy Control

We have a specialist subsidy control practice advising on the full range of advisory and contentious subsidy control matters. We advise all tiers and areas of government and public bodies as well as private sector organisations who have or could benefit from public subsidy. Alongside our on-going advisory and contentious work we are providing extensive support to our public and private sector clients on the implications of state aid being replaced by the new subsidy control regime.

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