

Many schools are considering or implementing measures to assist parents who are struggling to pay school fees. This is often by way of extending credit i.e. allowing parents to pay fees over an extended period of time, and sometimes security is taken.

When contemplating entering into any financial arrangements with parents, it is worth considering the possible legal implications of any assistance that may be offered.

Financial Services Legislation

The provision of financial services is regulated by the Financial Services Authority (the FSA), which enforces the rules set out in the Financial Services and Markets Act 2000.

Persons or organisations involved in the provision of any financial services may have to be authorised by the FSA before they can provide these services. Not all financial services require authorisation, however any activities that are 'regulated activities' within the meaning of the act require a person or organisation to be authorised by the FSA. Information on regulated activities can be found on the FSA website.

Extending credit is not in itself a regulated activity and therefore does not require a school to be authorised by the FSA. Even if the credit is granted in exchange for security, authorisation is not required unless the security is in the form of a First Legal Charge over property (i.e. a first mortgage).

This means that a school can grant parents additional time to pay fees without seeking FSA authorisation, except in the circumstance that the assistance it offers is secured by way of a first mortgage over the parents' property.

Consumer Credit Legislation

The provision of credit to consumers is governed by the Consumer Credit Act 1974. This act requires any business that lends money to be licensed by the Office of Fair Trading (OFT), even if they make no charge for the service or are non-profit making.

It is a criminal offence to carry out an activity that requires a consumer credit licence without a licence having been issued. Unlicensed trading is punishable by a fine, imprisonment, or both.

If, as part of its business, an organisation lends money, offers credit or gives people time to pay for services, it is likely to need to apply for a consumer credit licence, even if the credit activity only forms a small part of overall business. However, if an organisation only occasionally enters into the type of transaction requiring a licence a licence is not required.

This means that schools wishing to allow some struggling parents additional time to pay fees will not require a consumer credit licence if such arrangements are entered into infrequently. However, if schools find that they are routinely entering into such agreements, they should consider seeking legal advice as to whether they require a licence.

More information and details of how to apply for a consumer credit licence are available on the OFT website.

Is the position any different for a school that is a registered charity?

Generally, no.

An organisation's charitable status will not remove or alter the need for FSA authorisation. The need for authorisation depends solely on the activities being carried out by the organisation, not the nature of the organisation itself. If a charity is carrying on a regulated activity then it should be authorised by the FSA.

Similarly, the need for a consumer credit licence depends on the activity that is being carried out, rather than the nature of the business itself. If a charity is routinely entering into consumer credit agreements then it will need to be licensed by the OFT in the same way that any other business would. There is one exemption to this rule available specifically to charities, however this relates only to very particular types of agreement, which are extremely unlikely to arise in the business of a school.

This briefing is intended as a summary of legal developments only. It is not a substitute for advice, which will take account of specific circumstances.

To discuss Extending Credit to Parents for School Fees further, please contact:



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