

# Book Reviews

## Three English Perspectives

### **Schools and Employment Law**

Patricia Leighton

London: Cassell

1992, pp. 168

ISBN 0-304-32442-6

0-304-32445-0 (pbk)

### **The Legal Context of Teaching**

Neville Harris with Penelope Pearce and Susan Johnstone

London: Longman

1992, pp. 229

ISBN 0-582-03956-8

### **The Law Relating to Schools**

Neville Harris

London: Tolley

1995 (2nd Edition), pp. 422

ISBN 0-854-59765-4

The concurrent trends towards globalisation and regionalisation are reflected in the law relating to education, which is increasingly characterised by both strikingly uniform dominant issues and diversity of historical background and contemporary approach. These three English texts provide both information and stimulus to reflection.

'**Schools and Employment Law**' is published as part of the Education Management series produced by Cassell, books which are written 'for practicing teachers, administrators and advisers'. The author is Professor of Employment Relations at Anglia Polytechnic University, and has apparently participated in many training sessions with education administrators. The (United Kingdom) Education Reform Act 1988 introduced local management of schools, a major change

in relation to attracting, retaining and managing school staff. The book has obviously been written with this change and the resultant needs for increased skilling of education administrators very much in mind.

The six chapters discuss the legal context generally, contracts of teaching and non-teaching staff, terms of work, staff management, employment of atypical workers, and health and safety law in schools. Despite the detailed reference to English law, there is much that will be of interest to Australian readers.

The 'cautionary tales' which commence Chapter 1, the discussion of the law of contract in Chapter 2 and some parts of the discussion of terms of work in Chapter 3 will be very useful. Chapter 4 deals with staff management, emphasising disciplinary procedures, termination of contracts of employment and unfair dismissals legislation. These issues are often dealt with by education employers in Australia in a far from satisfactory way, and the material in this book will be of considerable assistance to those education administrators desirous of improving standards.

Chapter 5 deals with part-time, job share, fixed term and casual employment, agency work, flexi-hours, subcontracting, and homeworking. It is useful both in outlining the basic legal principles and in drawing attention to the implications of trends becoming more common in many jurisdictions.

The final chapter on health and safety law in schools commences with an analysis of why health and safety law is of growing importance, and then moves on to discuss the impact of European community law and both statutory and common law remedies. The emphasis on management of risk makes this chapter very useful for those charged with responsibilities in this area.

With its clear exposition, use of examples and practical orientation, combined with accurate but clear description of legal principle, this an extremely useful text.

**'The Legal Context of Teaching'** is published as part of the Effective Teacher series produced by Longman, a series described as being for trainee teachers and inservice teachers, but clearly also of considerable assistance to those advising educators or managing educational institutions. The authors at the time were respectively Lecturer in Law at the University of Liverpool, Director of the School of Law, Social Work and Social Policy at the Liverpool Polytechnic, and Senior Lecturer in Law at the Polytechnic of North London.

Chapter 1 deals with the legal environment, placing emphasis upon the new areas of which teachers and education administrators need to be aware. It is a stimulating introduction.

Chapter 2 relates to provision of education and, whilst dealing in some detail with the legal structure of schools in the United Kingdom, will be of interest to those seeking a comparative perspective. Chapter 3 deals with governing bodies and their role, including local management of schools. Parts of this chapter will be of considerable interest to Australians, as more and more powers and responsibilities are devolved to school managers.

Chapter 4 contains useful discussion of general principles relating to parent rights and responsibilities and an interesting summary of the English law relating to children with special education needs, which will be of interest to all education practitioners. Chapter 5 on access to information, and Chapter 6 on the school curriculum and the law are of interest to those seeking a comparative perspective.

Chapter 7 on discipline and Chapter 8 on the care of pupils contain much that is of interest to Australian readers, including discussion of both actual and hypothetical cases.

The final chapter relates to teachers as employees and, as with the first text reviewed, summarises a number of principles of law relating to the increasingly diverse forms of employment of teachers and deals with school-based management issues.

This book is a most useful reference work for teachers and school administrators with an interest in the area and well worthy of acquisition by those advising or researching in education law.

**'The Law Relating to Schools'** is the second edition of this major English text by Neville Harris who, at the time of publication in 1995 was Reader in Law at the University of Liverpool. It is described as being addressed to those with a professional consumer interest in the education system, including lawyers and other advisers, education administrators, head and other teachers, governors, education welfare officers, social workers, the voluntary sector and parents. The scope and style of the text certainly justifies this description, and also the description of the book's aim as being 'to offer a comprehensive account of the law relating to schools in England and Wales'.

The author describes 'the volume and scope of education legislation and case law' having grown 'dramatically' over the 4½ years since the first edition, and notes that the range of issues covered by the book has had to be broadened, and the size increased 'considerably'.

Chapters 1 and 2 describe the structure of the school system in England and Wales and then the various categories of school. Chapters 3 and 4 on finance and school government are of more direct interest to Australian practitioners, with devolution of more decision-making to school managers, and the discussion of general legal principles in these chapters will be useful background information for persons with such responsibilities.

Chapter 5 on teachers' employment conditions, Chapter 6 on the publication and provision of information and Chapter 7 on school admissions are of less direct relevance to Australian readers, except, of course, those interested in a comparative perspective.

Chapter 8 deals with curriculum issues and is useful as there are likely to be more legal disputes in Australia in this area. Chapter 9 on special education needs is highly topical and the detailed but concise description of the English approach is well worth reading, together with the following chapter on school inspections and special measures.

Chapter 11 on school attendance, chapter 12 on discipline and Chapter 13 on safety and welfare summarise the relevant principles of law (which in general terms are applicable in this country) in a helpful way. There is an extremely useful discussion commencing at page 331 of the importance, when considering whether there has been a breach of the duty of care, of examining not only the risk involved in the activity but also its benefit or ‘social utility’, issues which have been addressed in some recent Australian cases quite explicitly.

This work will be of great interest to those having a professional interest as advisers or researchers in the area, and at least half of the book will be useful to practising teachers and education administrators, given the clear statement of legal principles and the very informed placement of those principles in the contemporary context.

There is much to be learned from these three publications, particularly in relation to employment issues, school-level management, children with special needs, issues relating to the distribution of power between administrators, teachers, parents and students, and safety and welfare issues conceptualised in terms of modern approaches.

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