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Edward Timpson MP

Minister of State for Children and Families

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11 July 2016

Dear Sharon,

Thank you for your letter of 21 June, about comments on social media from the law firm Baker Small regarding recent cases at the Special Educational Needs and Disability (SEND) Tribunal, and for raising this issue during Education Oral Questions on 4 July. I would also like to thank the parents who have contacted you for sharing their experiences in confidence. I share your view that this was not a helpful action for a law firm to take, nor did it have the best interests of the child and their parents at its heart.

As you know, our reforms to the SEND support system were designed to put families and children at its centre, and make it less adversarial. Thanks to our changes, mediation is now available to parents and young people at an early stage and many of them are taking up this service. We have seen a downward trend in the number of appeals to the First-tier Tribunal in recent years and in 2015 more than 75% of mediation cases were resolved without the need to proceed to an appeal in that year.

The Tribunal has, from its inception, aimed to provide an informal and accessible forum for resolving disputes. Appealing to the Tribunal is a right for parents and for young people aged 16 to 25. It is free to take cases to the Tribunal, and there is no expectation that those appealing are legally represented at hearings. The Tribunal can also make a contribution to parents, young people and representatives towards out of pocket expenses, such as travel costs, in attending a hearing.

That said, we take very seriously the concerns raised about the system remaining too adversarial, despite the progress made since our reforms. We had already commissioned the Centre for Educational Development, Appraisal and Research (CEDAR) at the University of Warwick to carry out an in-depth review of the new system of disagreement resolution, which includes mediation and the Tribunal, to make sure that it is working effectively for parents, young people and carers.

The enclosed leaflet gives parents and young people who have had experience of using a SEND disagreement resolution route under the 2014 Act (i.e. mediation, disagreement resolution or Tribunal) the opportunity to pass their contact details to CEDAR. If you would like to pass this on to your constituents, one of the research team will get in touch with them to tell them more about the research and invite them to participate. For those who agree, CEDAR will set up a telephone interview at a time to suit, or arrange a face-to-face interview. CEDAR will be interviewing parents, young people and carers throughout the rest of this calendar year. The review is due to report to the department in February 2017 and the department will report the review findings to Parliament later that year, as promised when the Children and Families Act was completing its parliamentary stages.

I understand that Baker Small have self-referred to the Solicitor's Regulation Authority (SRA) to ask them to investigate Mark Small's actions on Twitter and to consider whether they have breached specific provisions of the SRA code of conduct. I also understand that a number of local authorities have either suspended their contracts with Baker Small or announced a review of their contract.

As this issue is currently under investigation by the SRA, I do not think it is appropriate at this time to raise it with the Solicitor General. It is the SRA, not the Solicitor General who regulates the conduct of solicitors. I will await its findings and CEDAR's review of disagreement resolution before taking action.

I hope this reply is helpful.

Yours sincerely,

Edward

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