

UK law firm boasts blocking support to disadvantaged children

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In June, UK law firm Baker Small provoked outrage following several posts on the company's Twitter feed boasting how it blocks support for children with special educational needs and disabilities (SEND, formerly SEN).

The law firm provides legal advice to several local authorities challenging parents who request support for their disadvantaged children. Its clients include Conservative-controlled County Councils in Gloucestershire, Cambridgeshire, Buckinghamshire, Norfolk and Hertfordshire, and Labour-run Croydon Borough Council. The estimated value of contracts for Norfolk County Council and Gloucestershire County Council alone reaches £900,000.

On June 11, the firm posted a tweet declaring, "Crikey, had a great 'win' last week which sent some parents into a storm! It is always a great win when the other side thinks they won!"

Another tweet declared, "Great ABA Trib [Applied Behavioural Analysis Tribunal] win this week...interesting to see how parents continue to persist with it. Funny thing is parents think they won :)"

When tweets began to circulate criticising Baker Small's remarks, a follow-up tweet incorporating a picture of a "laughing" kitten read, "Some great tweets received today from people who just see a one-sided argument...just shared them with my cat..."

Baker Small's CEO Mark Small issued an apology for the asinine comments, but proceeded to show his concerns were merely superficial. Of more importance was the fact that the tweets and ensuing press coverage "from a publicity point of view" had been "a disaster."

As a result of the tweets, the Independent Parental Special Education Advice charity lodged a formal complaint to the Solicitors Regulation Authority (SRA). The charity claimed the firm breached SRA

regulations, including principles of equality and diversity and protecting the interests of clients.

Baker Small's callous behaviour has also been evident in the courtroom, with charities SOS!SEN and Herts Parents Carer Involvement reporting that the firm's "confrontational, aggressive, disrespectful attitude to parents is commonplace." Beverly Watkins of Watkins Solicitors, which specialises in SEN (special educational needs) law, said that Mark Small "had a very unfortunate attitude of viewing parents of children with disabilities with disdain. ... He didn't have any compassion for the very, very difficult lives that many parents of disabled children have."

In one particular hearing, involving Richmond-on-Thames Council, the tribunal judge had to order the firm to desist from its aggressive attempts to acquire medical records from Great Ormond Street children's hospital in London, which had led to doctors becoming concerned.

The media storm quickly saw councils that utilised the firm's services terminating their contracts or declaring that they would not use them in future. But as one father told the *Guardian*, "Most of these local authorities say they're shocked...to find a contemptuous attitude to parents present at Baker Small. But SEN is a small world, and Baker Small's modus operandi is very well known."

"For the local authorities that purchased their services, Baker Small's approach with parents won't have been a surprise. For the worst Las [local authorities], it will have been an acceptable and desirable part of the package."

The father goes on to state, "[T]he local authority culture that creates demand for their services is the real problem. Unless it's addressed, we'll simply see another Baker Small pop up a few months down the

line.” In fact, within days, a new company was registered by Mark Small under the name Essential Special Educational Needs, Ltd.

Less than a month following the media reports, at least one council has gone back on its word to suspend Baker Small—Labour-controlled Croydon Borough Council, which had quarterly outgoings to the law firm of £110,000 in 2014/2015. In an *Inside Croydon* article of July 10, parents reported how they were once again confronting the prospect of Baker Small in the tribunal halls in upcoming cases.

One outraged parent told the local paper, “All they’ve done is let the dust settle on the outrage, and now Croydon are just going ahead as normal, using Baker Small as if nothing has happened. This is from a borough which pretends that it cares and likes to boast that [it is an] ‘Autism Champion’. But what are they really doing? They hire a bunch of legal hit men who make life hell for families like ours.

“Baker Small are hired by the council just to obstruct parents and waste time, all in the knowledge that it is costing families like mine thousands of pounds to fight through the courts just to get access to the sort of services which the council is supposed to provide. They do it on the basis that we will run out of money sooner than the council will and that we’ll go away.”

The Baker Small case reads like something out of a Dickens novel from Victorian England. But it is just latest symptom of the aggressive way in which successive governments have turned the screws on the most vulnerable members of society since the global economy crashed in 2008.

More than 1.3 million schoolchildren in England—15 percent of the total—have been identified as needing SEND support. However, recent research by the independent schools support company, The Key, revealed that 9 out of every 10 primary schools and 8 in 10 secondary schools have had their SEND funding affected by cuts. Local authorities have slashed such funding by up to 40 percent over the last six years.

The crisis in SEND provision make a mockery of the claims by the then-Conservative/Liberal Democrat government that its 2014 Children and Families Act would rectify the problems identified by the 2009 Lamb Inquiry, which concluded that parents had no confidence in the SEND system and felt “left out” of important decisions about their children.

Councillor Roy Perry, the Conservative chairman of the Local Government Association’s children and young people committee, even admitted recently, “We were clear with the Department for Education at the time that implementing the SEND reforms in the Children and Families Bill was significantly underfunded by the government and this has been borne out in reality.”

A report by SEND solicitors Boyes Turner earlier this year concluded “In our view, the special educational needs and disability system is rapidly becoming a two-tier system made up of the children of families who have resources (time, stamina, patience, wherewithal, financial) to challenge a decision, and those that do not.”

Research by the Department for Education (DfE) also shows that the rapid academisation of education, as a prelude to further privatisation, has also adversely affected SEND provision. Almost two thirds of secondary schools are now academies, outside local authority control, funded directly by central government and free to set their own curriculum and teachers’ pay and conditions.

In theory, academies are not supposed to treat SEND provision any differently than local authority schools, but in the “competition” to improve their results, they are excluding children requiring the most help.

The DfE found that academies run by government-appointed sponsors, usually a charity, were twice as likely to issue a permanent exclusion and that SEND children are eight times more likely to be singled out. As a result, more and more SEND children are being removed from mainstream education, reversing decades of educational ambitions and placed in a special school. In 2014, the figure was 41 percent. The DfE predicts that the number of special schools will increase by 30 percent in the next five years.



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