

Our Ref: [REDACTED]  
[REDACTED]  
Date: 30 June 2021

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Fraud Panel

FAO: The Chair of Governors,  
The John Roan School,  
Maze Hill,  
London,  
SE3 7UD

By email to [REDACTED]  
[REDACTED]

CC: The Royal Borough of Greenwich  
The Woolwich Centre,  
Wellington Street,  
Woolwich,  
SE18 6HQ

By email to: [REDACTED]

[REDACTED]

[REDACTED]

Dear Mr Belk,

**URGENT: Pre Action Protocol Letter**  
**Consultation on Proposal to make changes to SEND provision**

1. We represent [REDACTED] by [REDACTED] and Litigation Friend [REDACTED] in relation to the consultation (the "Consultation") undertaken by the John Roan School ("the School") in respect of its proposal to make changes to the format and makeup of its team responsible for delivering SEND support (the "Proposal"). This letter is sent pursuant to the Pre-Action Protocol for Judicial Review.

## Bindmans LLP

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**Proposed Claimant**

2. The Proposed Claimant (hereafter simply “**the Claimant**”) is [REDACTED], a child by [REDACTED] and Litigation Friend [REDACTED]. [REDACTED] proceedings are issued an application will be made to anonymise the Claimant as [REDACTED] (a child, by [REDACTED] Litigation Friend [REDACTED]). Please refer to the Claimant by their anonymised titles in correspondence until an Order is made and confirm that you will not object to such an application.
3. It is expected that other individuals may wish to be claimants in any action and we will notify you as appropriate accordingly.

**Proposed Defendant**

4. The Proposed Defendant (hereafter simply “**the Defendant**”) is the Governing Board of John Roan School, of Maze Hill, London SE3 7UD. Should you disagree that this is the appropriate Defendant, please confirm with reasons by return.

**Proposed Interested Party**

5. There are two Proposed Interested Parties which will be sent a copy of this letter.
6. The First Proposed Interested Party (hereafter simply “**the First Interested Party**”) are the London Borough of Greenwich, of the Woolwich Centre, Wellington Street, Woolwich, SE18 6HQ.
7. The Second Proposed Interested Party (hereafter “**the Second Interested Party**”) are the [REDACTED]
8. We also consider that all of the children at the school and their families are potential Interested Parties, but it is not practical for us to provide them with a copy of this letter. We would be happy for you to do so, provided the Claimant and [REDACTED] litigation friend are appropriately anonymised throughout.
9. Please confirm if you consider there to be any other interested parties such that we can provide them with a copy of this letter

**Details of the matter under challenge**

10. This proposed claim challenges the lawfulness of the Consultation pursuant to which the Defendant proposes to make changes to the

structure of the SEND Department at John Roan School. Specifically, it challenges the Defendant's failure to consult with families of children at the School, particularly those with identified SEND.

### **Background**

#### *The SEND Review and Proposal*

11. In March 2021 the Defendant underwent a review of its SEND department and working. The review was undertaken by an external organisation commissioned by the Defendant. The review's methodology was to prepare a report based on "virtual meetings with the Director of Inclusion, SENCo, the Deputy Headteacher and a range of SEND Support staff [sic]".
12. The review contains the following salient conclusions:
  - a. "The strategic element of raising standards and improving provision is excellently led through the Director of Inclusion. The systems and processes that she has put in place have created compliance and examples of strong practice, in line with the DfE Code of Practice. This includes the Inclusion register and tracking of provision through interventions."
  - b. "The Designated Special Provision has an experienced and specialist lead who manages the staffing within the provision, the curriculum and provides the clear link for students increasing their access to mainstream lessons. The timescales for students within the Provision to attend further mainstream lessons is appropriate given the complex needs of these students. The lead for the DSP has created a strong culture of communication between the team and is now moving to drive this culture with mainstream SEND staff, which will upskill all staff, particularly for those newly appointed staff that have limited experience. The DSP is an area of strength within John Roan, due to continual reflection from the team and the high expectations to improve the offer for students."
  - c. "[All staff] appear to have the mentality to continually improve and build upon their practice. They all felt well supported by leaders and had strong relationships with students and parents."
  - d. "The Pride room offers extensive wellbeing and emotional regulation support to integrate students in mainstream

lessons and develop their skills to be successful members of the John Roan community.”

- e. “From discussions with both SEND support staff and the SENDCo, there is further potential to hold classroom teachers to account with their adjustments and teaching strategies to support students with SEND. At present, it largely comes down to ‘on the spot’ differentiation and scaffolding support from Teaching Assistants within the classroom, which increases the need and reliance on Teaching Assistants... There is scope for the detailed Individual Learner’s Profiles (ILP) to be used explicitly within planning and teacher delivery to ensure students needs are met [sic].”
- f. The Review then includes five “Areas for Development and Next Steps” which are, in summary:
  - i. For alignment between SEND staff and mainstream staff so that there is “one shared vision” to improve collaboration and best practice sharing.
  - ii. To increase the offer of CPD to classroom teachers on SEND areas.
  - iii. The differentiation of worksheets in order to “build upon the DfE notion” that it is “ultimately classroom teachers [who have] responsibility for the progress of SEND students”.
  - iv. To use “Maximising the Impact of Teaching Assistants” (“MITA”) and “the EFF report” (which is otherwise unmentioned in the review, but presumably the report “Making the Best Use of Teaching Assistants” from the Education Endowment Foundation) to identify the roles and responsibilities of TAs in order to ensure their work is supportive of student’s independence and resilience.
  - v. To “raise the accountability of Middle leaders/Heads of Departments for the quality of teaching and progress of SEND students within their subject.”
- g. The Review then concludes with a “long term area to consider” which suggests the “possibility” of restructuring TAs to become specialists in particular fields of SEND and to reduce their time in the classroom. There is then the suggestion that there “could also be scope” to amalgamate some SEND roles to be more cost effective.

13. In June 2021, the Defendant produced the document titled “SEND Department Restructure Proposal June 2021” (“**the Proposal**”), and shared it with potentially affected employees in the week of 7 June 2021. It was not shared with parents then, and has not been shared since. The document outlines a number of proposed changes to the various structures at the School which constitute the SEND team. It suggests these changes are “*in response to [the SEND review’s] findings*”. However, it also states the aim of the Proposal is “*that staffing and other resources can be used more effectively*” and states that “*Expenditure in the SEND department is well above income and there is an overall deficit within the DSP and SEND budget of approximately £454,000 in the current academic year to date*”. It suggests that “*merging the two teams*” (presumably in reference to the Dedicated Special Provision and mainstream SEND support staff) will address the overspend.
14. The Proposal reiterates on a number of occasions that the review was prompted by SEND children at the school comparing unfavourably in their progress, when measured by Progress 8, to their peers without SEND.
15. The Proposal can be summarised as follows:
  - a. “Students on the SEND code of practice would receive increased specialist support through planned curriculum intervention and reduced in-class lesson support which we know to be less effective over time.” It is not clear what it means for children to be “on the SEND code of practice”, but this presumably refers to children registered with SEND. 24 teaching Assistants would be replaced by eight Specialist Learning Coaches “who are trained to address specific learning needs identified on an individual basis”.
  - b. “The School will invest in CPD for teaching staff to enable them to provide quality first teaching which leads to greater progress, and in enhanced CPD for support staff moving into specialist roles”.
  - c. The two positions; Director of Inclusion and SENCO would be removed. An Assistant Principal with responsibility for SEND and inclusion would be created. That post holder would carry out the role of SENDCO.
  - d. “The DSP Teacher roles would also be removed and a new ASD Specialist Teacher role created.”
  - e. Removal of all Teaching Assistant positions to be replaced with Learning Coach roles. It is proposed that Learning Coaches would “have specific areas of specialism, for

example in literacy, numeracy, speech and language, cognitive processing, emotional support.”

- f. Removal of the SEND Administrator post.
- g. Removal of the Counsellor and DSL (presumably dedicated safeguarding lead) post.
- h. Addition of two new posts: Student Support Manager and Safeguarding Officer. It is proposed that “the Student Support Manager would provide high level administrative support to the new Assistant Principal (Student Support) ensuring that EHCP reviews and recommendations are carried out effectively, lead on all medical matters as well as support with line management and deployment of the new Specialist Learning Coaches. The Safeguarding Officer would, under the direction of the Assistant Principal (Student Support), support the Designated Safeguarding Lead (DSL) in all elements of child protection and safeguarding matters.”
- i. Introduction of an “enhanced” counselling offer delivered through online sessions.
- j. Ending of the Pride Room with Pride Room Coordinator post being removed.
- k. First Aid Medical Lead removed and these duties subsumed by the Student Support Manager.

16. In total, the net loss in staff is 20, reducing the number for the Inclusion Department and DSP from 32 to 12. This means, in terms of hours available (assuming all posts are 1 FTE), the School will have 37% of its FTE hours available in the SEND team when compared to previous years.

17. The Defendant wrote to parents on 18 June 2021 (“**the Letter**”) to inform them of the proposed changes. The Letter stated that the Proposal followed “an independent review, along with significant research”. The nature of the additional research was not explained and nor was a copy of the independent review provided.

18. The Letter describes the changes as “*enhancements*” and at no point refers to cost saving measures or that there will be staff losses. It does describe there being “*impacted staff*” but does not elaborate. The letter describes the proposals as being in “the consultation stage” but indicates that only staff are invited to respond. Parents with “queries or concerns” are only invited to voice them “once the proposals are finalised”.

19. On Thursday 17 June 2021 the Claimant's family spoke with the School's Head Teacher who reassured them that there was nothing to worry about, and that the Proposals were "just a consultation".

[REDACTED]

#### *The School*

20. John Roan is an academy school having been forced to academise following its 2018 Ofsted inspection. It academised in 2019 having previously been a voluntary aided (maintained) school. At all material times it has been a mainstream, non-selective secondary with sixth-form.
21. The School had 1,115 enrolled students in the last year for which the Department for Education's data is available. Its published capacity is 1,400.
22. The capacity of the DSP is 16 and it is currently at capacity. According to the Review the School has 38 students with EHCPs and 15% of its students are registered as having SEND (but not necessarily with an EHCP).
23. Prior to conversion, the Defendant received an Ofsted inspection in 2018 in which it was rated as Inadequate and was a school causing concern for the purpose of section 44(2) of the Education Act 2005. However, praise was reserved in the report for the SEN team. It was determined that SEN provision was "*managed and resourced effectively*", and that additional funding for students with SEN was spent effectively. This was a full (or section 5) inspection.
24. A follow-up inspection took place in 2019. This was a non-routine (or section 8) inspection in which it was determined that the School's improvement plan was fit for purpose and the School was taking effective steps toward ending causes for concern.

#### *The Claimant's needs*

[REDACTED]

- 26.2 [REDACTED]

[REDACTED]

27. [REDACTED]

28. [REDACTED]

29. [REDACTED]

30. [REDACTED]

*Concerns of a Second Family*

31. In preparing this letter we have spoken with a second family who wish to remain anonymous for the time being. [REDACTED]

[REDACTED]. They chose the school specifically for its SEND provision [REDACTED]

32. The whole family is now mortified to learn of the impending changes and the loss of so much specialist provision, upon which they relied in making their decision to attend the John Roan. [REDACTED]

[REDACTED]



[REDACTED].

### *Concerns of a Third Family*

33. We have spoken with a third family in preparing this letter. They were not able to participate in the Proposed Claim because of the imminent need to serve this correspondence [REDACTED]

34. [REDACTED]. His parents fear that cutbacks to his support, or changes to his current arrangements which are not properly implemented will harm him at a crucial moment in his development, inhibit his academic prospects and prevent him from fulfilling his ambitions. They want to be able to participate in the planning and execution of SEND support at the School which will be of profound importance to [REDACTED]

### **Grounds in Support of the Claim**

The following grounds are relied on in support of this proposed claim:

1. The Defendant's failure to consult families (or at all) is in breach of the general public law provision to make decisions fairly;
  2. The Defendant's failure to consult families is in breach of the SEND Code of Practice; and
  3. The Defendant's failure to consult families is in breach of its own Equalities Policy.
35. For the avoidance of doubt, we also consider that, were a decision to be taken to implement the Proposal it is likely this would be unlawful for a number of other reasons. We therefore reserve the right to send further pre-action correspondence should such a decision be taken, albeit we hope this will not be necessary in light of this letter.

*The Defendant's failure to consult is a breach of the general public law requirement to make decisions fairly*

36. The Defendant decided to consult on the matter which was confirmed to parents in the School's letter of 17 June 2021. Having

confirmed that they will consult on the issue, the School became obliged to ensure that the Consultation happened fairly and properly in accordance with the general principles of public law.

37. The case of *R (on the application of Article 39) v Secretary of State for Education* [2020] EWCA Civ 1577 has recently reconsidered the question of proper and lawful consultation. The case arose in the context of children's rights as the Government sought to remove or weaken safeguards in effect for children in care. The Court found that the public authority (in this case the Secretary of State for Education) had a duty to consult with appropriate organisations before reaching a decision. Appropriateness was assessed with reference to the expertise of the relevant organisation and the interest of the communities they represented in the outcome of the consultation and the Secretary of State's decision. The Court found that:

*"It was manifestly in the interests of the vulnerable children who would be most affected by the proposed amendments that those agencies and organisations representing the rights and interests of children in care should be consulted."*

38. And further that, had the proper parties been consulted, that

*"the Secretary of State would have unquestionably been better informed about the impact of the proposed amendments on the vulnerable children most affected by them"*

39. In this case, those most directly impacted by the Proposal, other than staff facing redundancy, will be children with SEND at the School. Families of children with SEND know their children and are, of course, most acutely interested in their futures and ensuring they get the best provision. Consultation with them is therefore in all parties' interests. It will provide families with the opportunity to express their support or concern, and help the School to shape the proposed policies and practices to be the best they can be.
40. Failure to consult families would fundamentally undermine the purpose and fairness of the consultation. Staff of course are an important stakeholder group, but the School exists to benefit the children enrolled there. This is the purpose for which it uses public funds and it is the primary public function it discharges. The children with SEND in attendance at the School will be some of its

most vulnerable, should the Proposal proceed, they will experience either the benefits or the harm feasibly for decades to come. It is vital and the only reasonable course that a consultation on the issue include them. The consultation would therefore, clearly, be unfair and unlawful if it excluded the families of enrolled young people with SEND.

41. More generally, having decided to consult, the School must also comply with the four “Sedley principles” which were established in (*R v London Borough of Brent ex parte Gunning*) [1985] 84 LGR 168. The Sedley principles set out the foundational requirements of a fair public consultation. They are each addressed in turn below:

- a. The consultation must be at a time when proposals are still at a formative stage: in essence, the first requirement is that the School has not yet made up its mind, and that the proposals can be amended subject to consultation with parties. We note that the proposals set out by the School are at a developed stage, with specific staff identified for redundancy and the School moving at pace to implement the changes by September. This appears to include a significant change in the use of the School’s properties as set out in a letter to parents dated 14 June 2021, with the Westcombe Park site set to accommodate the majority of the School population, save for Sixth Form which will be at Maze Hill. The Pride Room will lose its physical space. Presumably, the DSP will be relocated. It therefore appears that the proposals are at a late stage and we seek reassurance from the School in their response that when consultation occurs it will be with a view to productive reflection on the proposals, and to making changes based on the views obtained.
- b. Sufficient reasons must be put forward for any proposal to permit “intelligent consideration” and response: the second requirement is about the detail and openness of the consultation document. They must be sufficient enough to enable consultees to effectively engage with the substance of the actions being proposed. The School’s 17 June letter is very light on detail and omits key facts such as the School’s desire to cut costs, and the extent of the proposed reduction in staff. The School did produce the Proposal which was more detailed, but this was not distributed to parents and has not been since. A fair consultation requires that the Proposal be distributed to all parents and their

responses invited. Otherwise, there is no way that families can engage with the substance or justification behind the proposals and offer their informed views.

- c. Adequate time must be given for consideration and response: the third requirement is simply that the procedure for the consultation accommodate sufficient time for people to engage productively with it. Many parents are still unaware of the Proposals. Some parents who are due to start in year 7 in September, including those who selected the School and have secured a place in the DSP, have not been informed and are as yet unaware of what provision they will be in receipt of when taking up their new school place. The School is set to make a decision shortly after 1 July 2021, which is a wholly inadequate time for consultation on such significant proposals. We invite the School to propose a workable timeline in their response which enables parents to gather their views and provide responses.
- d. The product of consultation must be conscientiously taken into account by the decision makers: the final requirement is not about the consultation itself but that the responses the School receives must be considered with a view that the Proposal may change as a result, where the consultation provides good, popular or compelling grounds to do so. We seek the School's reassurance that the responses received to a consultation will be considered in good faith and the concerns or suggestions of families acted on where appropriate.

42. In the alternative, should the School assert that the consultation was not a policy consultation in the public law sense (which would be denied), the School would still be bound to undertake a consultation by virtue of the Court's finding in *McInnes v Onslow-Fane* [1978] 1 WLR 1520 in which the Court found that there were four categories of case that may oblige a public authority to undertake a consultation, the most significant of which was a "forfeiture" case, in which a person was set to lose rights or benefits that they had previously enjoyed.

43. Clearly, the Defendant's decision constitutes a forfeiture case. The School's proposal sets out actions in which, in order to save costs, the SEND team is being reduced in number by nearly two thirds.

44. Further, fairness requires that the Claimant be able to ask pertinent questions regarding the proposals. There are a number of points the School makes which give rise to significant and relevant questions which families must have the opportunity to address. These include:

- The School's justification for the reforms including a comparison between the progress of SEND learners, and learners without SEND when measured by Progress 8. SEND includes a range of needs - some of which will impact on a young person's capacity to achieve within the Progress 8 measure. For some, this is not even their primary objective and successful transition into adulthood may require a greater focus on core skills. It is therefore inevitable that the progress of SEND learners will be lower than their peers and it is a non-sequitur to suggest that this justifies the reforms as proposed. A more prudent comparison would be between the progress of the cohort at the Defendant School and of analogous students at comparator schools. Parents must have the opportunity to question this methodology and ask the School to account for it.
- The School has publicly stated that the changes are about improving quality. However, in the Proposal the focus is at least split between this and funding. There are serious questions to be asked about how the School has accrued a deficit of nearly half a million pounds a year when the systems in place for providing for SEND learners only require the School to make up the notional budget of £6,000 per student.
- The Review on which the proposals are based is very brief, being only four pages. The methodology was for the reviewer(s) to conduct online meetings with leaders and some SEND staff. The authors did not visit the school, did not observe classes, did not speak with young people, did not speak with families and did not review any of the EHCPs and other documents currently relevant to SEND provision at the School. There are serious questions to be asked about this methodology and the dramatic proposals that have arisen from what appears to be such a superficial review.
- The Review did identify that there is room for Quality Led Teaching in classrooms which will reduce the impact on Teaching Assistants. However, the School proposes to implement all reforms including removing all teaching assistants by September 2021, *before* implementing the QLT reforms and assessing their efficacy. This means that if the latter fails, children are left without the Teaching Assistant support to fall back on. This gives rise to legitimate and

pressing questions about the School's timeline and the order in which they are proposing to take steps. Additionally, the Review titled this part as a "long term" goal, yet the School wants it to be actioned with incredible speed. It is legitimate to be concerned about this pace, and the irreversibility of these reforms. Families must have the opportunity to hold the School to account on the rationale of the timetable, and the order in which steps are proposed.

- Whether their EHCPs will still be enacted in full remains an open question. The School has said that they will, but parents have the right to examine this claim as it is central to their fundamental legal entitlements to the provision set out in their EHCPs. This is reasonable given the dramatic number in the basic measure of available staffing hours. Families need the requisite information to understand how the proposals will ensure their EHCPs are fulfilled and to challenge the School on this claim should that be appropriate.
- The number of exclusions has reportedly increased at the School recently. If accurate, this gives rise to concern that the School must now take productive action to mitigate the risk of exclusion for impacted children in accordance with the requirements of the Statutory Guidance titled "Exclusion from maintained schools, academies and pupil referral units in England". Parents of impacted children have compelling reason to want to ask how the proposals may impact upon this trend and ask the School to account for how they will meet their lawful responsibility to mitigate this risk when considering the changes.

45. For these reasons the School is in breach of its public law responsibility to make decisions fairly, which in this instance necessitates lawful and fair consultation with families.

*The Defendant's failure to consult is in breach of the SEND Code of Practice;*

46. The SEND Code of Practice ("**the Code**") is statutory guidance and the Defendant must follow it unless there is good reason not to do so.
47. Engagement with parents and young people in key decisions that will impact their provision and the service they are provided is a key component of the Code. It is a theme that permeates the requirements on all parties, including schools. Of particular relevance are the following paragraphs.

48. At paragraph 6.54 the Code provides that:

*“The impact and quality of the support and interventions should be evaluated, along with the views of the pupil and their parents. This should feed back into the analysis of the pupil’s needs. The class or subject teacher, working with the SENCO, should revise the support in light of the pupil’s progress and development, deciding on any changes to the support and outcomes in consultation with the parent and pupil.”*

49. At 6.79 the Code requires that:

*the proprietors of academy schools must publish information on their websites about the implementation of the governing body’s or the proprietor’s policy for pupils with SEN... and must include information about... arrangements for consulting parents of children with SEN and involving them in their child’s education [and] arrangements for consulting young people with SEN and involving them in their education.*

50. The Defendant is proposing the most dramatic and fundamental amendments to its SEND provision in the Claimant’s time at the School. Whilst not strictly related to the Claimant’s EHCP specifically, it is proposing foundational change that *will*, for better or worse, have a significant and, for all intents and purposes, permanent impact on the provision made for the Claimant and other young people at the School. It is inconceivable that this is not covered by the paragraphs above and their requirement that these changes be made in consultation with parents and young people.

51. Of grave and fundamental concern is that the Defendant did not even tell families the true nature of the changes. They did not release the Review or the Proposal, instead writing a letter that omitted the financial motivations or the number of staff to be lost. It is not feasible that parents could productively engage in the process with this absence of information even if an avenue to do so had been presented. The Code requires specific engagement at least on the following questions:

- The loss of the DSP (which will lead to further integration into mainstream);
- The loss of TAs [REDACTED];

- The loss of the Pride Room, [REDACTED]
- The loss of face to face counselling.

52. Finally, the Code states at paragraph 3.66 that:

*The school's governing body must ensure that arrangements are in place in schools to support pupils at school with medical conditions and should ensure that school leaders consult health and social care professionals, pupils and parents to make sure that the needs of children with medical conditions are effectively supported.*

53. The School is proposing to remove the Medical Lead post and move their duties to a nominally administrative post. This *must* be done in consultation with families such as the Defendant, as well as medical professionals. There is no evidence to suggest that the latter has happened. This is of particular concern given the timing of this proposal, as it is set to be implemented in the midst of a global pandemic in which properly planned and implemented medical care is of paramount importance. We understand that the current post-holder is a trained nurse and we invite the school to confirm that the new post-holder will be required to hold similar qualifications.

*The Defendant's failure to consult is in breach of its own Equalities Policy*

54. The Defendant's published Equalities Policy states:

*"We ensure that those who are affected by a policy or activity are consulted and involved in the design of new policies, and in the review of existing ones."*

55. Academies are required by law to have a published SEND policy, which we cannot see on the Defendants website. Presumably the proposals will result in a change to this policy (if it exists), which *must* happen in consultation with parents in accordance with the School's own Equalities Policy.

56. In any event, the School's Accessibility Policy will change. It places specific and explicit reliance on the DSP, the Pride Room, Teaching Assistants and the School counsellor. The School therefore *must*, in accordance with its own policies, consult with parents.

### **Nature of the Consultation**



57. It is worth briefly addressing the nature of the consultation the School must engage in. Of course, it must begin with an honest and forthright accounting of the School's methodological basis for reaching the proposed changes, the impetus (including financial) for the changes, and the specifics of the changes without engaging in obfuscating or misleading marketing to parents. Further, it must last for a reasonable time to allow parents to engage with it productively. Finally, it must be accessible so that parents can engage without prohibitive roadblocks. We would be very pleased to discuss the specifics and proposals for doing so are addressed further in the ADR section below.

### **Alternative Dispute Resolution**

58. Of importance is the present deadline the School has given to reach a decision on the proposals, which is 1 July 2021. Clearly, our challenge is to that deadline and this letter is served to prevent the School from taking a decision that would necessitate a claim before having the benefit of the contents set out herein.

59. That being the case, as long as a decision is not taken prior to consideration of the contents of this letter we would be pleased to engage in constructive discussion with the Defendant regarding the nature and format of any consultation. It is appreciated that resolving this claim will work best as a conversation, given that this should lead to a more constructive consultation, rather than an acrimonious dispute.

### **Information sought**

60. Under the Pre-Action Protocol for Judicial Review paragraph 13, we request the following information:

- The school refers, in its proposal, to "further research" upon which it based its decision to proceed with the proposal (in addition to the Review). Please detail this research and provide any documents upon which it was based, or which detail the conclusions of that research.
- Please provide any impact assessment conducted regarding the proposed changes. If none was undertaken, please confirm this.
- Please confirm the details of the budget shortfall that the Defendant has described for the present academic year. Please confirm whether this is entirely due to the school needing to meet its requirement to make up the notional SEN budget, or whether the School has not secured the requisite top-up funding to realise the provision set out in the EHCPs of children

on roll. If the latter, please confirm any steps taken to address funding with the Local Authority prior to introducing the Proposal.

- Please disclose your SEND policy if you have one, or confirm that it is included in another policy.
- Please provide an updated version of the School's Equality, Objectives and Action Plan. We note that this is due to be reviewed every three years and was therefore due for review in 2019.
- Please provide a copy of your Funding Agreement made with the EFSA.
- Please confirm the number of hours of 1:1 support Children are cumulatively entitled to across the school, as set out in their EHCPs.
- Please confirm whether all 16 children in the DSP have ASC. We note that the DSP teachers are being replaced with an ASC specialist and this invites the question of how other needs will be addressed, if there are relevant other needs.
- Please provide us with data regarding the number of SEN children who have been issued Detentions, School Based Exclusions, Fixed term and permanent exclusions from 2018-2021 as outlined in the Equality Objectives and Action Plan.
- Please provide any job descriptions prepared for the new posts.

#### **Timing for a response**

61. The normal time limit for a response under the Pre-Action Protocol is two weeks. We are happy to agree that the full two weeks should be observed, as long as the School can agree not to proceed to any final decision before responding to this claim. If the School makes a final decision without a satisfactory response, then we reserve the right to issue proceedings without providing further notice in order to obtain timely relief.

#### **Conclusion**

62. The School is proposing hugely significant changes to its programme of SEND provision. These changes *will* impact the Claimant for better or for worse. Even with the best will in the world, such reforms can go wrong and the Claimant a■■ parents have significant concerns about the changes as proposed. They also have expertise and insight of which the School should be keen to obtain the benefit if they wish to ensure they make the best of this opportunity to truly improve provision at the School.

63. If the changes should go wrong, the ramifications for the Claimant may be very significant indeed. [REDACTED]

64. [REDACTED]

65. There are many children in position at the School. These parents have a right to input into these proposals given the huge gravity of the decision being considered, and their own expertise on their children's needs and learning. The School not only has a legal obligation to listen, but would benefit greatly and would likely come out with stronger proposals for it.

66. The School therefore must postpone a final decision until a proper, productive consultation can be held.

Yours sincerely,

*Bindmans LLP*

Bindmans LLP

