

## **Pro bono: Balancing the “playing field” of Education**

Old and cramped Victorian terraces, housing a diverse selection of ethnic shops, stand on either side of Thornton Heath high street in South London. This is one of the most impoverished and ethnically diverse areas in the UK, falling within the 11-20% of most deprived areas nationally. The ward profile statistics show high levels of crime and unemployment, with 52% of children living in low-income families, as reported by the End Child Poverty Campaign.

It is in this area that one of three walk-in advice clinics is held by the charity SOS!SEN each month. SOS!SEN provides free legal advice through help-lines, walk-in clinics and training on matters relating to Special Educational Needs (SEN), as well as representation for parents at the Special Educational Needs and Disability (SEND) Tribunal.

Looking past the grim facade of anti-vandalism bars, the Salvation Army Centre in Thornton Heath symbolises a beacon of hope to those arriving for the SOS!SEN free advice clinic. Already queuing are parents waiting outside as the smartly dressed solicitors and legal advisors finish setting up the tables and chairs in two of the centre’s sparse meeting rooms. The volunteers - two solicitors and a retired headteacher - have generously given up their morning to staff the clinic.

“Having originally trained as a barrister and taught to represent the case in the best possible way, regardless of your own moral and ethical opinion of your client or their case, representing parents of children with a range of SEN who are often desperate for help is massively fulfilling,” says Adam Friel, a Legal Representative and Adviser for SOS!SEN. Mr Friel understands implicitly the battle that these children and their parents face as he has dyslexia himself. “It is amazing what I have been able to achieve but this has only been possible because of the extra help and support I have had throughout my education. I was very lucky and now have the opportunity to give something back, helping those get the support they need, support that without free advice they would struggle to obtain. It is an incredible feeling.”

Michelle Baldock became a legal advisor for SOS!SEN after receiving educational advice from them regarding two of her three children who have SEN. Mrs Baldock qualified as a commercial solicitor at Field Fisher Waterhouse and explains, “Working in SEN gives you something that you don’t get working in commercial law, it is a completely different direction. There is no emotional involvement creating a patent licence for the dimples on a golf ball. With SEN you are involved in a child’s life and their future. There is a real sense of relief from those parents that we help. We all recognise it’s a tough system and many parents typically struggle to cope on their own.”

The Special Educational Needs and Disability Review 2010 by Ofsted concluded that 1.7 million school-age children in England, approximately 1 in 5 pupils, are identified as having SEN. The majority of pupils currently identified as having SEN are disproportionately from disadvantaged backgrounds. Young people with learning difficulties or disabilities past the age of 16 also comprise one of the largest groups most likely not in education, employment or training (NEETs).

One parent expressed her frustration and anger at the system she has to fight in order to get her son the appropriate educational provision he needs. “With the Local Authorities cutting their budgets it seems like there is no way they are going to pay out for my son. I was told that I was an over anxious parent who should be patient and wait. I know the Local Authority SEN officers are just doing their job, but they will never feel the way I do when I see my son struggling to write his name. I don’t want my son to avoid school because he can’t cope and then get himself into trouble. There are five gangs in this area. Without the support of SOS!SEN I would probably break down and seriously consider emigrating. I could never do this on my own, the system is just too complicated.”

IPSEA is another charity providing free legal advice, given by trained volunteers, to families who have children with SEN. IPSEA has developed a longstanding relationship with Linklaters that began in 1993 and also has links with the pro bono centres at Bates Wells & Braithwaite and Durham University.

Linklaters volunteers undergo a training programme before commencing pro bono work on IPSEA’s Advice Line or Tribunal Support Service. Those volunteers forming part of the Tribunal Support Service can expect to take on up to 5 cases per year, advising and supporting parents who are appealing to the SEND Tribunal.

“I’ve really enjoyed working as a Tribunal Representative,” says Zoë Hughes, a Litigation Associate at Linklaters. “There is a lot of work involved preparing for Tribunal and it can be daunting but it is very rewarding. I probably spent over 100 hours preparing for my first Tribunal case, however, in comparison to the area I usually work in where there is a limit to the amount of advocacy I do as a junior lawyer, in these cases there is much more responsibility as it is up to you to identify the issues and represent the client.”

“Since becoming involved with IPSEA it seems so common for parents to be fighting their Local Authority and this really struck a chord with me,” continues Hughes. “Normally you are dealing with parents who have no legal background. These parents often have a number of commitments taking up their time. To be able to make their lives easier in any way and the gratitude you receive after the end result, definitely makes the late nights worth it.”

Jean Tsang, a qualified solicitor in charity and public law from Bates Wells & Braithwaite, became involved with IPSEA to advise and represent parents/carers of children with SEN to bring appeals to the SEND Tribunal. “It’s great to be in a position where I have the skills to help people that really need it. It is not just about providing advice, it's also a hand-holding process for what is a very stressful experience for parents battling against the Local Authority to obtain better special educational provision for their children.”

Proposals from the Ministry of Justice (MOJ) to cut Legal Aid funding alongside the budget cuts already placed on Local Authority funding are placing many families in jeopardy. A total of £1.7 million was spent in the 2009/10 financial year on legal aid for education cases. More than 5,300 families received help from solicitors in preparing appeals and cases, and more than 200 were represented at Tribunal.

“With the proposed legal aid cuts people are expected to turn more and more to charities to seek pro bono advice,” Tsang continues. “These charities are now under even more pressure. If the cuts go ahead there will be an even greater demand for services despite the increased competition for funding.”

With the help of approximately 150 volunteers, 2,177 people were helped during 2010 by IPSEA’s telephone advice lines and 324 tribunal cases were supported through the SEND process by IPSEA volunteers.

“Our basic point is that we cannot meet the demand we have for our service now,” states Jane McConnell, Chief Executive of IPSEA. McConnell goes on to explain, “If a parent is eligible for Legal Aid we signpost them to solicitors who hold an education legal aid contract and have the additional expertise to support these specialist SEN cases. It is a limited and increasingly contracting pool of firms. Once the solicitor has prepared the paperwork, including evidence, IPSEA will then accept the case back for advocacy. If the Legal Aid proposals come in we would obviously need to re-direct our casework support to the most needy. We don't use financial criteria to assess who receives casework support; it is based on type of case, care factors of the family and any additional complicating factors.”

An overwhelming number of parents in SEN cases face an uphill battle against Local Authorities who have access to resources and legal services and who do not always appear to play by the rules of the game.

“Already these parents are disadvantaged as they do not have the knowledge, funds, and skills to fight,” emphasises Marion Strudwick, Co-ordinator of SOS!SEN. “It is likely that the disappearance of Legal Aid would effectively destroy the future of SEN kids in inner city areas such as Southwark and Lambeth. SOS!SEN really cannot take any more cases on, but I know we will.”

Many of us take our education for granted. Pro bono volunteers are using their knowledge, skills and time to support the underprivileged, providing balance to the education playing field. With the ever increasing numbers of SEN children and the proposed cuts to Legal Aid, pro bono volunteers will be the lifeblood that keeps the heart of the legal justice system beating for those who would otherwise be forgotten.

By Chantal Percival