

Meg Hillier MP
Chair
Committee of Public Accounts
House of Commons
London SW1A 0AA

16 January 2018

Dear Ms Hillier,

I am writing to clarify some points following my appearance before your Committee yesterday, Monday 15 January.

1. learndirect's marketing budget

I misspoke yesterday while discussing learndirect's marketing budget in 2011. I hope the Committee will appreciate that I was discussing matters dating from well before my involvement in the business, and allow me to correct the record.

In fact, learndirect radically reduced the size of its marketing budget from 2011 when the organisation moved out of the not-for-profit sector.

learndirect's marketing budget was £4 million in 2011.

Its marketing spend peaked from March 2003 to July 2004 at £26.8 million, while it was still a not-for-profit organisation. This was the figure I mistakenly referred to yesterday.

2. The nature of the High Court's injunction order

I have consulted with our lawyers following the claim made in yesterday's session that learndirect had sought a "superinjunction" which, it was claimed, prevented government bodies from discussing learndirect's case with each other.

I have been advised that the injunction imposed by the court was a standard injunction, which only prevented publication of Ofsted's report for the duration of the judicial review proceedings, and reporting of the proceedings while they were underway.

To be clear, no "superinjunction" was in place, and no court order was sought by learndirect in order to prevent any part of government discussing the case with another part of government.

If helpful, we will provide the Committee with the relevant documents showing this to be the case once we have seen the draft transcript from yesterday's hearing.

In fact, the government bodies concerned were already aware of the situation and were discussing this. Furthermore, Ofsted themselves breached the injunction almost immediately after it was granted when their press office spoke to *FE Week*.

3. learndirect's decision to pursue a judicial review

There was some discussion yesterday about learndirect's reasons for choosing to pursue a judicial review.

I wanted to provide a fuller explanation of the grounds for learndirect's judicial review application.

learndirect's board strongly disagreed with Ofsted's decision to award a grade 4. We wanted to test this decision fully before the report was published, given the implications this decision would have had, and indeed subsequently has had, on the organisation and on learners.

learndirect had concerns that Ofsted's report was not a fair reflection of the business. I spoke yesterday about the small sample size that the inspection was based on.

learndirect's involvement in SME apprenticeships was being wound down at the time, and I was concerned that past performance in this area should not affect the future of the organisation.

As I mentioned yesterday, I also disagreed with Ofsted's decision in May 2017 to refuse to undertake further inspection, in line with its own guidance (Ofsted protocol: *Gathering additional evidence to secure an incomplete inspection*).

Naturally, we fully accepted the High Court's ruling.

We have been working to improve performance, and Ofsted has acknowledged the progress we are making – both in its original inspection report published in August 2017, and its monitoring visit report published in November 2017.

Yours sincerely,



Andy Palmer
Chief Executive