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## **DECISION**

<b>Date of Birth:</b>	2001	
<b>Appeal of:</b>	The Parents	
<b>Type of appeal:</b>	Against the contents of a statement of SEN.	
<b>Against Decision of:</b>	The Local Authority	
<b>Date of hearing:</b>	2012	
<b>Persons present:</b>	The Parent	<i>Parent</i>
	The Parent	<i>Parent</i>
	The Local Authority Representative	<i>Educational Psychologist</i>
	The Local Authority	<i>Speech &amp; Language Therapist (SaLT)</i>
	Witness	

### **Appeal**

1. The parents appeal under section 326 Education Act 1996 against the contents of a statement of special educational needs made by the LA for the Child.

### **Preliminary Issues**

2. No preliminary issues arose.

### **Facts**

3. The Child was born in 2001 and is now almost eleven years of age. The appellants are her parents.
4. The Child attends School A. The Child is placed in a year 5 group comprising twenty five pupils. The Child has 32.5 hours per week teaching assistant support.
5. A statement of special educational needs was originally issued in 2005. The statement was amended in September 2011.
6. The Parents now appeal against part 3 of the amended statement.

### **Tribunal's Decision with Reasons**

7. We have carefully considered all the written evidence and submissions presented to the tribunal prior to the hearing and the oral evidence and submissions given

at the hearing. We have also considered the relevant provisions of the Code of Practice for Wales 2002. We conclude as follows.

8. In the statement under appeal the LA has varied the description of the teaching assistant support provided to the Child by replacing the words *“The Child will receive 32.5 hours of learning support assistant per week in their mainstream school”* with the provision *“The Child will have access to 32.5 hours per week teaching assistant support whilst attending their mainstream school”*.
9. The reasoning of the LA in making this amendment was not explored at the hearing as the parties reported that the issue had been resolved on the basis that the Child will continue to receive 32.5 hours of teaching assistant support whilst at primary school.
10. The issue to be considered by the tribunal is the provision of speech and language therapy. The LA amended the statement to reflect advice given by the Speech and Language Therapist to the annual review. This advice is contained in a report dated 2012 and her recommendations read as follows:

*“The Child will receive 12 hours of support per year from the Speech, Language and Communication Team. This time will be used to:-*

- *Monitor the Child’s language and communication needs*
- *Liaise with the SENCo and other staff as requested*
- *Update strategies as necessary*
- *Provide a programme of activities*
- *Share and demonstrate resources*
- *Provide individual or group sessions over the year. These sessions may be provided in the school holidays.*
- *Attend and/or write reports as necessary “*

11. The parents oppose this amendment and argue for increased speech and language provision. At the very least they want the previous wording restored to the statement namely:

*“The Child will receive eight hours of speech and language therapy per term delivered by a qualified therapist in school. The therapist will liaise with the school in order to plan the Child’s IEP and to provide a specific programme to be delivered by the LSA on a daily basis. The LSA will attend the direct therapy sessions to facilitate the modelling of activities by the therapist, liaison, monitoring and review of the programme.”*

12. It was drawn to the attention of the LA at the beginning of the hearing that the final amended statement contained both the amended and the original speech and language provision. The LA confirmed that this was an error and that the

original provision should have been deleted from the statement. It is surprising that this error was not corrected sooner by the LA but as the parents were clear about the LA's intention and had not been misled by this mistake, the tribunal proceeded as if the deletion had been made.

13. The reason for the LA amending the nature of the speech and language provision is based upon an assessment undertaken by an Educational Psychologist dated the 2011 which concludes that *"The child presents with a cognitive profile suggesting global learning difficulties"*. The Educational Psychologist (EP) in her report of January 2012 comments that the Child's global difficulties

*"..... are reflected in the fact that although the Child has made progress in the development of their language and communication skills, the progress is very slow in light of the amount of speech and language therapy input and school support the Child receives"*

14. On the basis of those reports the LA argues that providing direct therapy is no longer appropriate. The LA considers that the Child will continue to make progress commensurate with the Child's abilities through programmes that are embedded in their curriculum and delivered by the teaching assistant throughout the day on a daily basis. The EP argues that 12 hours a year of support from the Speech Language and Communication Team is appropriate to deliver the proposed provision to meet the Child's needs. The EP explained to the tribunal how the provision will be made and gave details of social communication groups that are held during the school holidays over a four day period and also social communication groups held after school. The LA argues that because the child had no speech production difficulties the Child's real need is language development and the type of programme proposed by the LA is suitable to meet the Child's needs and enable them to make progress.

15. There are in the bundle two reports prepared by independent Speech and Language Therapists, (SaLT 1) and (SaLT 2), whose findings are similar to those of the SaLT (LA Witness). It is worth noting that (SaLT 1) in the report of January 2008 states:

*"It may be useful to discuss different option for implementing the Child's language and social communication programme, which may be more appropriate than the present direct therapy approach. A less intrusive approach for the Child may be for a speech and language therapist to work in a consultative model, providing a language and social communication programme for the LSA to implement, which is regularly updated, as opposed to providing direct therapy on a weekly basis"*.

16. (SaLT 1) also highlights the need for a social communication group, as does (SaLT 2) in their report of January 2012 where SaLT 2 states that:

*“The Child requires social skills intervention to develop their communication skills and awareness of others within conversations” and that “the Child requires supported practice to facilitate their employment of social skills in real life scenarios with other children”*

Neither (SaLT 1) nor (SaLT 2) advocates direct speech and language therapy.

17. It is recognised by the LA that a social communication group is necessary for the child, although it has not been possible to organise such a group within the Child's present school setting. The SaLT (LA Witness) explained that she organises social communication groups after school and during school holidays. The child has been invited to attend a social communication group held after school during February and March 2012 for six sessions. The standard invitation letter states that attendance at this group will comprise part of the Child's entitlement for speech and language therapy as set out in their statement. The letter also suggests that if the Child does not attend this group, then they will not be offered the opportunity to attend any other groups.
18. The Parent was concerned that this social communication group coincides with the hydrotherapy sessions arranged for the Child as part of their occupational therapy needs. The SaLT (LA Witness) explained however that if the Child is unable to attend this group then alternative provision will be made to satisfy the requirements of the statement.
19. The tribunal is concerned that elements of the speech and language programme will be delivered outside the school setting and during school holidays. The tribunal takes the view that to enable the Child to make progress the speech and language programme must be embedded into the Child's learning programme and delivered on a daily basis in school. Given the Child's global learning difficulties then it is within this familiar setting that the Child will best generalise the skills learnt. Whilst attendance at a communication group during the school holiday will also be of benefit to the Child, it is extremely important that arrangements are made for a communication group to be provided within a school setting. Whilst no doubt provision arranged during school holidays has educational benefits, the provision contained in a statement of special educational needs is designed to be delivered within a school setting.
20. Subject to the above observations, the tribunal accepts that the Child's language needs can be met through a consultative model of delivery of speech and language therapy programme. The tribunal accepts the evidence of the SaLT to the effect that persevering with the direct therapy approach will not achieve progress beyond what can be achieved through the model of delivery now proposed by the LA. The tribunal considers that this view is endorsed by the reports of the Independent Speech and Language Therapists. The tribunal finds

the specificity of the programme and the degree of input proposed by the SaLT to be suitable and appropriate in the circumstances. Although the number of hours specified, namely twelve, appears to be an arbitrary figure, it should be sufficient to enable the Speech and Language Therapist to deliver the provision specified. The tribunal will in adopting the LA's proposal express the number of hours to be a minimum figure so as to ensure that all the provision is appropriately delivered. The crucial aspect is that the programmes are embedded into the Child's learning programme and then delivered throughout the day on a daily basis by a teaching assistant.

21. In the circumstances therefore the tribunal accepts the LA's proposal in respect of the speech and language provision, subject to certain amendments to ensure that the provision is delivered within a school setting.
22. The appeal is therefore allowed in part on the basis that the amendments set out below are made to the statement.

**ORDER:** Appeal allowed in part

- 1). The section in relation to teaching assistant support shall be amended to read as follows :

*Whilst remaining in her primary school, the Child will receive 32.5 hours per week of teaching assistant support.*

- 2). Speech and language provision shall be amended to read as follows :

*The Child will receive a minimum of twelve hours support per year in school from the Speech and Language Therapist. This time will be used to:*

- *Monitor speech, language and communication needs*
- *Liaise with the SENCo and other staff as requested*
- *Update strategies as necessary*
- *Provide a programme of activities on a termly basis*
- *Share and demonstrate approaches and resources*
- *Provide individual or group session as required.*
- *Attend reviews and/or write reports as necessary*

*The Child will need to attend a social communication group arranged by the Speech and Language Therapist*

- 3). The paragraph "*The Child.....review of the programme*" under the heading "Language Skills" to be deleted.

**Dated March 2012**

**Chair**