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## **DECISION**

<b>Date of Birth:</b>	2009	
<b>Appeal of:</b>	The Parents	
<b>Type of Appeal:</b>	Contents of a Statement of SEN	
<b>Against Decision of:</b>	Local Authority	
<b>Date of hearing:</b>	2013	
<b>Persons Present:</b>	The Parent	<i>Parent</i>
	Parent Representative	<i>SNAP</i>
	LA Representative	<i>Educational Psychologist</i>
	LA Witness	<i>SALT</i>

### **Decision**

1. This is a further decision in the case of the Child, the first decision having been given following a hearing in March 2013. We will not set out the history or basic facts in this case again. These can be read into this decision from the previous decision.
2. It was not possible to conclude the hearing in March 2013 and we adjourned to May 2013 in respect of decisions relating to part 3 of the Child's Statement, relating to class size, peer group, and the degree of specialisation required, and also Part 4 in relation to the naming of an appropriate school placement.
3. In further considering this appeal we have considered all of the evidence, both written and oral, Section 326 of the Education Act 1996 and the Special Educational Needs Code of Practice for Wales.
4. The position at the further hearing was that the Local Authority recommended a specialist school placement for the Child. It suggested School A which has a specialist teaching facility catering specifically for children with autism.
5. On behalf of the Parents it was confirmed that a number of schools have been visited, and from these one has been chosen as the parental preference, being School B. This is a mainstream independent school.
6. The Parents also visited School C, and the Parent indicated that the parents open-mindedness with regard to specialist provision is demonstrated by their acceptance that that particular specialist school could in principle meet the Child's needs. Unfortunately, it is some distance from their home address, and is too far for the Child to travel on a daily basis. Further, on a balance of probabilities both the Local Authority and the Parents accept that there is not likely to be a place available at School C from September 2013.

7. The Parents considered and rejected School A. They did so, on the basis that the class would have a range of ages up to 7, catered for children with a range of severity of autism, lacked sufficient security, and was, in their opinion, dilapidated.
8. School B is the Parental choice because it has small classes of 8 or 9 pupils, and in addition one to one support for the Child would be provided full-time by the Local Authority. The school itself has confirmed that over the school year the number of pupils in the class would not exceed 14. This is contained in an e-mail dated April 2013, from the headteacher, who also states that the present number in the nursery is 11, although some of these children are part-time. In September it is anticipated there would be between 9 and 12 pupils. This class would also provide a peer group of similar age, and a place is available immediately. It is accepted by the Local Authority and the Parents that there would have to be a planned period of transition, however.
9. School B has one stated child at present, but we have no evidence as to the nature of that Child's difficulties. Neither do we have any evidence as to the experience or training of the school staff in meeting the needs of a child on the autistic spectrum. There is no evidence either about the availability of speech and language therapy at the school.
10. The provision recommended by the Local Authority, the specialist teaching facility at School A, is available from September 2013. It has a class size of 6, comprising of 2 in year 2, 2 in year one and potentially two in reception, one of whom would be the Child. We are informed that consideration is being given to a planned and flexible transition to aid the Child entering that provision. Given that we are now in May 2013, it was felt that this was preferable to the Child attending a local mainstream primary school now, with support, to cover the interim period between May 2013 and September 2013. The latter course would effectively start the Child at one school when from September the Child would be attending another, and both the Local Authority and the Parent thought this to be not in the Child's best interests.
11. We note that the provision at School A is the Local Authority specialist provision to meet the needs of children on the autistic spectrum and that expert provision to meet the needs of a child on the spectrum, and also the needs of a child with Speech and Language difficulties, is available there. We heard evidence that School A has available to it a trained and experienced Speech and Language Therapy assistant who can provide speech and language therapy on a one-to-one basis for the Child. The Speech and Language Therapist would provide the programme and monitoring required in the Statement, as amended following the last hearing. We were told the Estyn report dated March 2011 in relation to School A stated that performance and prospects for improvement were good, and the regard for well-being was very high and was especially evident in the four specialist learning facility classes, where elements of provision were found to be excellent.
12. We have noted the expert views at page 75 in the bundle, who states that a

school placement for the Child should have autistic spectrum disorder expertise, and at page 79, that the Child would make better progress if the Child was with a small group of peers, in a class with a high staffing ratio and with a highly structured curriculum. We also bear in mind that the Child has a diagnosis of autism and learning difficulties, and has significantly delayed language skills to the extent that the Child has no speech. We note that the Child is very self-directed and will seek to undertake activities on the Child's own terms, and further that, as the Child has no appreciation of danger, the Child needs to be closely monitored. The Child's profile of difficulties, in our view, point towards a specialist provision being necessary to meet the Child's needs. The expert evidence to which we have referred above, and the evidence we have heard is all supportive of a specialist placement.

13. We have accordingly amended Part 3 of the Statement to refer to a specialist placement, with a small class size, an appropriate peer group, with high staffing ratios and a highly structured curriculum.
14. Either school would provide a small class size. School A would provide a peer group of similar age but not the specialist provision that the Child requires. The age of the class at School A would be less similar, but the group has similar difficulties to the Child. The staff ratio will be high, and the group will only number 6, so the slight difference in ages should not be an issue in our view. Given the Estyn report's confirmation that the well-being of children is well served at School A, and that the staff are experienced in meeting the needs of similar children to the Child, we are confident that this would also be a safe environment for the Child.
15. We therefore have concluded that the specialist teaching facility at School A is the most appropriate placement to meet the Child's needs.
16. Given our decision as to the suitability of the placement at School A, there is no need to consider any issues as to the efficient use of resources by the Local Authority. This is fortuitous, given the lack of any evidence from the Local Authority as to the cost of a placement at School A so as to enable us to make a comparison with the cost of a placement at School B.

### **Conclusion :**

We have therefore amended Part 3 of the Statement in the Child's case as is set out in the copy annexed hereto, and have named the specialist teaching facility at School A in Part 4.

### **Order**

1. The appeal is allowed insofar as Part 3 of the Statement of Special Educational Needs relating to the Child is concerned, as per the amended version annexed hereto, but is dismissed in relation to Part 4.

**Dated May 2013**