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## **DECISION**

<b>Date of Birth:</b>	2006	
<b>Appeal of:</b>	The Parents	
<b>Type of Appeal:</b>	Contents of a Statement of SEN	
<b>Against Decision of:</b>	The Local Authority	
<b>Date of hearing:</b>	2013	
<b>Persons Present:</b>	The Parents	<i>Parents</i>
	LA Representative	<i>Statementing Officer</i>
	LA Witness	<i>Head Teacher</i>

### **Appeal**

The Parents appeal under section 326 of the Education Act 1996 against the contents of a statement of special educational needs made by the Local Authority for their Child.

### **Preliminary Issues**

There was no application for the admission of late evidence although the Appellants indicated that a complete copy of their case statement was not included in the bundle. A complete copy was provided to the tribunal panel for consideration prior to the hearing.

### **Facts**

1. The Child was born in August 2006 and is now six years and eleven months of age. The appellants are the Child's Parents.
2. The Child's Parents initially raised concerns about the Child's speech and language and social communication before the Child started in primary school. The Parents commissioned an assessment from a Speech and Language Therapist, which identified traits consistent with the Child being on the autistic spectrum.
3. A Statement of Special Educational Needs was written for the Child in April 2010.
4. A multi-disciplinary assessment undertaken by the Health Care Trust confirmed a diagnosis of autistic spectrum disorder for the Child in October 2010 and as a result the Statement of Special Educational Needs was

amended in April 2011 to reflect this diagnosis. In addition, the Statement was also amended to reflect a diagnosis of verbal dyspraxia. It is unclear who made the diagnosis of verbal dyspraxia as the records appear to have been mislaid.

5. The Child moved to School A in September 2011, and a referral was made to the local health board in September 2011 for a speech and language assessment. Unfortunately a report was not produced by the University Health Board until March 2013.
6. The LA commenced a re-assessment of the Child's special educational needs in June 2012, which resulted in the issue of a proposed amended statement in October 2012.
7. Following further observation and representations by the Parents, an amended proposed statement was issued in November 2012. Although the Parents were not in agreement with this amended proposed statement, a final statement was issued in December 2012 but not issued to the Parents until January 2013.
8. In March 2013 the Parents issued an appeal to the Tribunal against parts 2 and 3 of the statement of December 2012.

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

9. We have carefully considered all the evidence and submissions presented to the tribunal prior to the hearing, and the oral evidence and submissions delivered at the hearing. We have also considered the relevant provisions of the Code of Practice for Wales 2002. We conclude as follows.
10. The Child is one of nine pupils in a year 2 class at School A. There are two other pupils with a dual placement who join the class periodically. The class is supported by a class teacher and three classroom assistants.
11. Initially, the Child had been placed in a more generic class with slightly younger pupils. This class received regular ABA therapy. However it was considered that the Child could benefit from moving class in January 2013. There is general agreement that the Child has benefitted from this move and that the Child responds well to the teaching approach adopted by the class teacher. It was understood that the Child will have the same class teacher when the Child moves to Year 3 in September 2013.
12. School A is a generic specialist school with one hundred and eighty pupils on roll. About a third of the pupils are on the autistic spectrum. The other pupils have a range of special educational needs and some have more complex needs.
13. There are three pupils with autistic spectrum disorder in the Child's class which reflects the overall profile of the school.

14. The Head Teacher indicated that autism is increasingly becoming the main focus in the school. School A is accredited by the National Autistic Society.
15. The Parents agree that the Child has made progress at School A and that the Child is beginning to engage with other pupils on the school yard. The Child is now taking advantage of social modelling and has fitted well into the class.
16. The Parents however remain concerned about the provision of speech and language therapy.
17. The only area in dispute in Part 2 of the statement is the wording in the first paragraph. The Parents contend that the current wording is factually inaccurate and does not reflect the true chronology of events. The LA Representative indicated that the wording was taken from the previous statement, although the Child was amenable to an appropriate amendment. The parties agreed to a form of wording proposed by the tribunal and which is set out below.
18. The second paragraph in Part 2 should also be amended to make reference to the diagnosis of verbal dyspraxia written into the Child's statement by the Council in April 2011. Whilst there is no documentary evidence, this diagnosis is accepted by the LA and the professionals currently working with the Child.
19. The tribunal also highlighted that it is appropriate to amend the wording under the heading 'Current Situation' so as to accurately reflect the arrangements currently in place.
20. The only other amendment required is the correction of a typographical error in the spelling of the word 'gentle' under the heading 'Information from School'.
21. In relation to Part 3 of the statement, the Appellants seek the inclusion of an additional objective to highlight "The Child's needs and requirements with regard to the Child's condition of verbal dyspraxia and autism". The Parents however accepted the suggestion made by the panel that this aspect would be covered by the inclusion of the words "in light of the diagnosis of autism and verbal dyspraxia" at the end of the first objective.
22. In relation to the provision set out under the sub-heading 'Individual Programmes' the Parents argued that the same wording as in the statement issued by the Council should be included in the Child's current statement. It transpires that the only difference in the wording is the inclusion of the word "qualified" to describe the speech and language therapist who is to devise the Child's individual programmes. It is considered by the panel that any speech and language therapist will of necessity be "qualified". However the Parents seek reassurance that the Speech and Language Therapist is appropriately qualified to address the Child's verbal dyspraxia.

23. The Child currently receives daily speech and language therapy on a one-to-one basis for thirty minutes, delivered by an assistant Speech and Language Therapist employed by the school. In addition, the Child participates in two group sessions a week, concentrating on social interaction. The school has the benefit of a distraction free area to provide this therapy. In addition, the speech and language therapy targets are integrated into the Child's daily curriculum.
24. The Head teacher of School A, explained that there is one full time equivalent Speech and Language Therapist on the staff. The Speech and Language Therapist is supported by two speech and language assistants in order to assist with the delivery of the individual programmes. In addition, the Clinical Lead Speech and Language Therapist for the local Health Board are based at the school, and devote approximately .6 of their time to the pupils at School A. They regularly review the Child's ICP targets/communication programme on a fortnightly basis. They also provide reports to the class teacher and to the Parents.
25. It seems however that the Parents have not received all the reports provided by the Clinical Lead Speech and Language Therapist, and perhaps this is an issue that needs to be addressed to ensure that there is no breakdown in communication between the Parents and the therapy team. The Parents were anxious to retain the informal termly monitoring and reviews as provided for in the Child's original statement.
26. The LA Representative considered that it was impossible to undertake termly reviews for all the pupils at School A because of sheer weight of numbers. However, the Head Teacher was not averse to the idea of termly reviews and was content for their own staff members to engage in such reviews. The Head Teacher was not however able to commit the NHS Speech and Language Therapist to such an arrangement. However, the Parents indicated that they had spoken to the Therapist who is content that there should be termly reviews, and it is suggested that, in practice, termly reviews are occurring in any event. It seems appropriate to the tribunal that as there are fortnightly reviews undertaken by the Speech and Language Therapist that the Parents should be involved in review meetings on a termly basis.
27. The Parents state that, ideally, they would like the speech and language therapy provision to reflect the recommendations contained in a report. These recommendations include the direct involvement of a Speech and Language Therapist for up to an hour and a half per week. However the report was completed in September 2009 before the Child started nursery school and is therefore dated. There is more recent evidence based upon the Child's performance at school in the form of reports provided by a Specialist Speech and Language Therapist, in March 2012 and in September 2012. They conclude that:

*“The Child falls within the category of clients who require assessment, management, advice from a specialist speech and language therapist, working as part of a multi-disciplinary team working within a school setting. The Child requires a specific individual communication programme that is carried out regularly, intensively and consistently within the school, with very regular reviews by the speech and language therapist”.*

This summary is reflected in the provision contained in Part 3 of the Child’s statement.

28. On the basis of this recent evidence and of the report of the Child’s progress at school, the tribunal finds that the speech and language therapy provision currently delivered is appropriate to meet the Child’s present needs and that the wording contained in Part 3 of the statement in relation to this provision is therefore appropriate. The tribunal was impressed with the quality of the speech and language therapy provision that the Child currently receives, and with the Child’s progress at the school.
29. In relation to the contention by the Parents that the word ‘qualified’ should be inserted, the tribunal does not feel that this is necessary. However it does note that in both reports it refers to a specialist Speech and Language Therapist, and therefore it is appropriate that this word be inserted to describe the qualification of the therapist who devises the programmes in Part 3 of the statement.
30. The Child’s statement will accordingly be amended to incorporate the changes set out above.

**ORDER:** Appeal allowed

**I. Part 2 of the statement shall be amended as follows :**

- (a) The first paragraph under subheading ‘Background’ will be amended to read as follows :

*Prior to the Child attending Nursery it was identified that the Child was experiencing difficulties with speech and language development, social communication and play skills. The Parents obtained assessment and advice from a Consultant Speech and Language Therapist who assessed the Child and the Child’s developmental history using the Autistic Diagnostic Observation Schedule (ADOS), Autistic Diagnostic Interview (ADI) and the Communication and Symbolic Behaviour Scales Development Profile. It was concluded that “The Child scored within the threshold for autism on the ADOS with difficulty in reciprocal and social interaction and communication”. A multidisciplinary assessment carried out by the Health Care Trust confirmed a diagnosis of autistic spectrum disorder for the Child in October 2010.*

- (b) The second paragraph shall be amended by inserting the words '..... and verbal dyspraxia' at the end of the second sentence.
- (c) Amending the paragraph appearing under the heading 'Current Situation' to read "

*The child currently attends School A on a full time basis. The Child is in a class of 9/11 pupils with four members of staff. The Child has an individual communication plan which is monitored by the Speech and Language Therapy service. The Child is receiving daily therapeutic intervention from an assistant speech and language therapist and he participates in two group sessions a week*

"
- (d) Correct spelling of the word "gentle" under the heading 'Information from School'

**II. Part 3 will be amended to read as follows:**

- (a) The first objective is amended to read as follows :

*"To support the development of the Child's basic communication skills and social interaction skills in light of the diagnoses of autism and verbal dyspraxia"*

- (b) Under the heading 'Individual Programmes' the third paragraph to read

*"An individual programme, devised by a specialist speech and language therapist in liaison with the teacher. This should be delivered by the team on a daily basis"*

- (c) Under heading Monitoring – the inclusion of the following :

*"There shall be termly monitoring of the individual education plan and an individual education plan review meeting to include the Parents, the speech and language therapist and the class teacher"*

**Dated July 2013**