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DECISION

Date of Birth:	1999	
Appeal of:	The Parents	
Type of Appeal:	Contents of a Statement of SEN	
Against Decision of:	Local Authority	
Date of Hearing:	October 2012	
Persons Present:	Parents	<i>Parents</i>
	Parents Representative	<i>Solicitor</i>
	LA Legal Representative	<i>Barrister</i>
	LA Representative	<i>SEN Officer</i>
	LA Witness	<i>Head Teacher</i>
	LA Witness	<i>SALT</i>

Appeal

1. 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

2. The following written evidence was admitted on behalf of the Appellants by agreement pursuant to regulation 50(1)(a) Special Educational Needs Tribunal for Wales Regulations 2012 :
 - i. Educational Psychology report dated June 2012
 - ii. Speech and Language Therapy report dated September 2012
 - iii. Occupational Therapy report dated August 2012
3. On behalf of the LA the following written evidence was admitted pursuant to the same regulation, namely:
 - i. An Occupational Therapy report dated October 2012
 - ii. A Speech and Language Therapy report October 2012 and a supplemental letter dated October 2012
4. In addition the LA applied under regulation 47(2) to change a witness. The LA had previously named a Community Paediatrician as a second witness. The

LA applied to allow a Speech and Language Therapist to attend as a witness at the hearing. The Appellants did not object and the application was allowed. The tribunal may have taken a different view had the Appellants opposed the application.

Facts

5. The Child was born in June 1999 and is now thirteen years and five months of age. The Appellants are the Child's Parents.
6. The Child attended a mainstream primary school within the County.
7. In August 2010 prior to transfer to secondary education the Child was referred to a Consultant Paediatrician at the Learning Assessment & Neurocare Care Centre, which led to a diagnosis of "ADHD, autistic spectrum difficulties and the early onset of oppositional defiance disorder combined with neurodevelopmental difficulties".
8. In September 2010 a Consultant Paediatrician with the Local Authority Teaching Health Board, on the basis of a multi-disciplinary assessment, concluded that they could not support a diagnosis of autism or attention deficit disorder.
9. The Child began secondary education in September 2010 at School B within the Authority. Soon the Child began to demonstrate behavioural difficulties and the Child's attendance deteriorated.
10. In April 2011 the Child's Parents requested a statutory assessment of the Child's special educational needs and in October 2011 the LA issued a proposed statement.
11. A final statement was issued in February 2012 naming School A in part 4. School A is a maintained special school for pupils between two and nineteen years with a wide range of learning difficulties.
12. In March 2012 the Child began integration into School A and since April 2012 the Child has attended on a full time basis. The Child is currently in year 9.
13. The Parents issued an appeal against parts 2 and 3 of the statement of special educational needs in March 2012.
14. The appeal was initially listed for hearing in July 2012, but was adjourned upon the request of the Parents to enable further evidence to be obtained and filed. In particular the Parents sought to file reports from an occupational

therapist and a Speech and Language therapist. This evidence has now been filed.

15. The parties have submitted a working document which shows some areas of agreement and also highlights the areas of disagreement to be addressed by the tribunal.

Tribunal's Decision with Reasons

16. 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:
17. It was extremely heartening to learn that the Child has settled down well at School A and that the Child now enjoys attending school. In addition the Child has got used to the bus journey to and from school and the Child's attendance is good.
18. The Head teacher of School A reported that the Child is happy at school and is making progress, and that the Child is responding well to a negotiated behavioural plan. The Child is placed in a class of ten pupils and is one of the more able pupils that the class, although the Child is not the only one of average cognitive ability. The Parents also endorsed the views expressed by the Head Teacher and expressed their satisfaction with the placement at School A.
19. There is disagreement between professionals upon an appropriate diagnosis for the Child. It is not the function of this tribunal to make any findings in that regard, and the tribunal is content that the wording proposed by the parties for inclusion in part 2 of the statement is entirely appropriate, reflecting the differing professional opinions. Part 2 of the statement will therefore begin as follows :

“ The Child has a diagnosis from a Consultant Paediatrician, of ASD, ADHD, and ODD. However the multi-professional team in their report dated October 2011 did not confirm the diagnosis but identified emotional difficulties, interaction difficulties and problems with self-esteem. The Child has a history of emotional and behavioural difficulties. ”
20. The issue for this tribunal is to ensure that appropriate educational provision is made to meet the Child's special educational needs.

21. In this regard the parties agree that Speech and Language therapy is an educational need for the Child, but there is disagreement upon the extent of the provision required.
22. The Appellants rely upon the report of the Speech and Language Therapist. The Speech and Language Therapist comments:

“ The Child presents with most of their receptive and expressive language skills in the normal range. However there are a number of significant, specific areas of difficulty. The Child has problems understanding meaning links/semantics. The Child also has significant difficulties repeating and recalling verbal information and sequencing and organising words. The Child also presents with significant social communication difficulties. Whilst the Child is friendly in conversation the Child lacks the subtle social communication skills that one would expect at their age and with the Child’s level of cognitive ability. The Child has pragmatic language difficulties and these make the Child interpret language very literally. ”
23. The LA’s Speech and Language Therapist (LA Witness) agrees that the Child presents with most of their receptive and language skills in the normal range. In the assessment report dated February 2010 the Therapist concludes that the Child does not have a specific Speech and Language difficulty and that there is no evidence of social and communication difficulties. Following the report the Child was discharged from the Speech and Language Therapy service. However they now agree that there is evidence of social and communication difficulties, hence the need for a social use of language group.
24. The evidence from School A indicates that the Child has no specific Speech and Language difficulties but that their literal understanding of language is quite apparent. The Head Teacher indicated that it would be appropriate to set up a social skills group involving the Child and two or three other peers. The LA proposes that the Child attends a social use of language/social skills group once a week.
25. The LA’s Speech and Language Therapist (LA Witness) also highlighted what they considered to be inconsistencies in the assessment. By way of example the SALT highlights that in the report word meaning links were considered to be a difficulty receptively. However the Child then obtains a low average score for word classes expressively. The SALT highlights that there is no explanation or acknowledgement of this discrepancy within the report. The SALT them self assessed the Child in January 2010 where the Child’s word class’s receptive score was within the average range. The SALT considers that the recommendation for direct therapy on word links is, therefore, questionable.

26. In particular the tribunal accepts the reasoning by the SALT for not proposing direct Speech and Language therapy every two weeks for no less than forty minutes. Research evidence suggests that social groups are more effective than any social skills intervention on a one to one basis. In addition there is considerable doubt as to whether or not the Child would be prepared to work with a Speech and Language therapist on an individual basis. It is noted that the Child did not complete the assessment with the SALT. In addition removing the Child from class would be singling them out and could well give rise to increased anxiety.
27. Upon reflection the Parent also accepted that one to one Speech and Language therapy on a withdrawal basis would not be effective and indicated the belief that the Child would be far more likely to co-operate and to derive benefit from a social skills group.
28. Whilst it is acknowledged that the SALT was proposing direct therapy in addition to the social skills group, given the present context and the evidence from the school the tribunal concludes that the LA's proposal to set up a social skills/use of language group is appropriate to meet the Child's current Speech and Language therapy needs. The SALT confirmed that they could set up and monitor the group and also if requested update the programme on a regular basis and provide a report to the annual review. The tribunal considers it appropriate that the Speech and Language Therapist remains involved in this way and that such involvement is recorded in the statement. It is also encouraging to note that the Child has already forged a friendly relationship with the other pupils identified as likely to be part of a social skills group.
29. The tribunal is content to accept the proposed wording suggested by the LA in this regards as being appropriate to meet the Child's needs. It is noted that the groups will occur on a weekly basis but no reference is made to the proposed duration. It is accepted that there must be an element of discretion depending on progress and the Child's commitment but in order to be as specific as possible the tribunal considers that it is appropriate to specify a minimum period of twenty minutes for each session. The tribunal considers this minimum period to be appropriate in light of the current evidence.
30. The LA does not propose providing any occupational therapy. The report of the Occupational Therapist concludes:

“Based on the Short Sensory Profile teaching staff responses (last years and this year's teachers) there is no evidence that the Child is experiencing significant sensory issues impacting on the Child's

ability to function in school currently. An Occupational Therapy programme is therefore not indicated."

31. The Parents rely on the report of an Occupational Therapist which advocates direct occupational therapy for an hour each fortnight and a sensory programme for implementation in the classroom. The Occupational Therapist makes these recommendations on the basis of the finding that the Child has two areas of occupational therapy difficulties, namely handwriting, motor and visual and motor integration difficulties and secondly sensory processing and modulation dysfunction.
32. It is significant that the Occupational Therapy report was conducted during the school holiday and not therefore within an educational environment.
33. Recent evidence from the school suggests that the Child's handwriting remains a problem although it is reported to be improving. The Child is reported to function well within school and has not during this term had any recourse to the use of the ear defenders. In addition the Child has developed strategies for travelling on the school bus which involve either playing the Child's Gameboy or listening to music.
34. The Child is also reported to be a keen and able footballer and the Head Teacher commented in an aside that the Child has "no difficulty in climbing over the school fence from time to time".
35. The Child is placed within a highly professional school environment, which has developed strategies to address behavioural problems. This in turn has led to an improvement in the Child's attitude to learning and ability to concentrate. The Child's behaviour at home is reported to be different, although the Parent states that there is a vast improvement in the Child's behaviour both at school and at home since being prescribed medication for ADHD.
36. The Head Teacher indicated that the school has not noticed any significant difficulties with handwriting, although it remains an area of weakness. The Head Teacher considers that the handwriting issues can be addressed through the use of appropriate strategies and equipment that will assist to improve the Child's handwriting. In addition it is reported that the Child enjoys using a computer and that there is therefore the potential to use alternative means of recording work.
37. The same issue of being withdrawn from the classroom arises if the Child were to receive direct occupational therapy on an individual basis. There is a real likelihood that the Child would respond negatively to being singled out. The Parent agreed that this was likely to be the case. The tribunal is persuaded by the current evidence from the school relating to the Child's

occupational therapy needs and can see no compelling evidence as to why it should be desirable or necessary to provide individual occupational therapy sessions.

38. It is noted that whilst the parties agree that handwriting is an area of weakness, there is no reference to handwriting in the working document. The tribunal proposes to make such a reference and to include provision in part 3 to address the Child's handwriting. The provision reflects the evidence given by the Head Teacher as to the manner in which the school will address the issue.
39. The tribunal therefore concludes that no occupational therapy provision is required save for the work to be undertaken by the school to address the Child's handwriting.
40. The Educational Psychologist in their Educational Psychology assessment dated June 2012 advised that the basis of the Child's difficulties with mathematics will "*require further investigation over time by an experienced special needs teacher*". There has been no further investigation in this regard and no additional evidence was presented to the tribunal. The only additional information received was from the Head Teacher who confirmed that the Child's achievements in maths are lower than in other subjects. However the Head Teacher considered that some of these difficulties could be attributed to the Child's understanding of the language of the questions posed, rather than any specific Mathematical difficulties. The Educational Psychologist does not suggest dyscalculia.
41. It is noted that the school has experience in precision teaching and also implements a catch-up Maths programme. The tribunal's attention was drawn to the recommendation in the Educational Psychology report dated June 2011, which indicates "The Child would benefit from precision teaching for addition and subtraction, and the Child will require lots of overlearning of these concepts to ensure that the Child becomes fluent in them". There is no evidence that a specialist teacher is required. It is also significant that the Child them self is showing more interest in Maths and has expressed an interest in studying GCSE Maths. The school will also take advice on the Child's specific needs in this regard.
42. It is common ground that School A is working well for the Child and that the Child is recovering after difficult experiences in their previous school. The Head Teacher indicated that the school's ultimate aim is to work towards mainstream inclusion. The Parents however are clearly of the view that mainstream inclusion is not presently appropriate and should not be considered at this stage. The Parents however are extremely anxious to

ensure that the Child acquires appropriate life skills as the Child moves through the School, and the tribunal is confident that the staff at School A will be alert to those needs over the coming years.

43. In the circumstances the appeal will be allowed to the extent that parts 2 and 3 of the statement are to be amended to reflect this decision.

Order:

Appeal allowed.

Dated November 2012