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## **DECISION**

<b>Date of Birth:</b>	2003	
<b>Appeal of:</b>	The Parent	
<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>	2013	
<b>Persons Present:</b>	Parent	<i>Parent</i>
	Parent Representative	<i>Solicitor</i>
	LA Representative	<i>Barrister</i>
	LA Witness	<i>SALT</i>
	LA Witness	<i>Teacher</i>

### **Appeal**

The Parent appeals 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**

No preliminary issues arose at the hearing.

### **Facts**

1. The Child was born in July 2003 and is now nine years and six months of age. The appellant is the Child's Parent.
2. A statutory assessment of the Child's special educational needs was commenced in July 2007. In October 2007 following a multi-disciplinary assessment a diagnosis was made that the Child is on the Autistic spectrum.
3. A statement of special educational needs was issued in November 2007, and shortly thereafter the Child was placed at the ASD unit attached to School A.
4. In November 2011 the Parent requested a re-assessment of the Child's special educational needs, and this was completed in June 2012 with the issue of a draft revised statement.

5. A final revised statement of special educational needs was issued in September 2012. The Parent objected to the terms of parts 2 and 3 of the statement and issued an appeal in September 2012.
6. In considering this appeal the tribunal is empowered to dismiss the appeal or to direct the LA to make changes to parts 2 and/or 3 of the 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 relation to part 2 of this statement, the parties are in agreement that the proposed amendments set out in the working document filed on behalf of the appellant can be included in the statement. The wording proposed is taken from the Speech and Language report. The tribunal is content that these agreed changes reflect the Child's current functioning and are therefore appropriate amendments to part 2 of the Child's statement. The statement will be amended accordingly.
9. In relation to part 3 the appeal focuses on two issues, firstly one-to-one support for the Child during the whole of the school day and secondly the provision of Speech and Language therapy.
10. The Child is currently a year 5 pupil in a specialist resource base attached to School A. There are currently twelve children in the unit placed in two classes of six. All the pupils have a diagnosis of ASD and have statements of special educational needs written for them. The ages of the children range from four to eleven and the ability of the children is wide ranging. The Child's needs are described as being greater than those of the Child's fellow pupils within the unit.
11. There are two class teachers in the unit supported by six teaching assistants. One teaching assistant is dedicated to the Child.
12. The Child has access to the mainstream for a number of activities including lunch, assembly, Physical Education and play time. It is reported that the Child enjoys their forays into the mainstream. The Child continues to require assistance with toileting.

13. In essence the reality of the situation is that the Child already receives the support that is requested by the Parent. The Parent however is anxious to record the provision of the one-to-one support in clear terms in the statement. The LA is content that the wording proposed by the Appellant in their working document is appropriate and can be included in part 3 of the statement. The tribunal agrees that this change should be made to reflect the support that is currently provided.
14. The one issue therefore for adjudication by the tribunal is the provision of speech and language therapy. Part 2 of the statement describes the Child as having “severely delayed expressive and receptive language skills” and as having “severe difficulties with social communication”. The Appellant expresses considerable concern about the lack of Speech and Language therapy provision for the Child during their time at School A, a concern that appears to be shared by the school staff. During the statutory reassessment period a letter was submitted by a Speech and Language Therapist from the Health Board stating that appropriate targets and strategies were in place for the Child, and that as such the Child did not require direct Speech and Language therapy intervention. The Child was accordingly discharged from the service.
15. The decision of the NHS therapists did not reflect the view of the school and LA and a Speech and Language report was commissioned from an independent Speech and Language Therapist. The SALT assessed the Child in April 2012 and produced a report dated May 2012. The SALT advised that the Child should be given support from a suitably qualified Speech and Language therapist in the form of programmes which are monitored on a half termly basis. The LA adopted these recommendations in the revised statement issued in September 2012.
16. The teacher in charge of the resource base indicated that the unit has not been able to draw upon the advice and assistance of a Speech and Language therapy in the past in relation to the Child. However, since September 2012 the SALT had been engaged by the LA to deliver the provision contained in the statement. The SALT has hitherto visited the school on a half-termly basis since September 2012 to advise upon the delivery of the programmes that they have provided.
17. The SALT remains of the view that their recommendations are appropriate. There is no dispute that Speech and Language therapy is an educational need for the Child but in their view this therapy is best provided through a consultative model and delivered by the classroom staff on a daily basis. The SALT does not consider that the Child is in a position to benefit from intensive direct therapy delivered on a weekly basis, as this therapy would be delivered in isolation and out of context

and therefore would not enable the Child to generalise skills acquired, in a classroom setting. The SALT believes that a visit by a therapist on a half-termly basis is appropriate in order to monitor progress and to adapt the programmes accordingly in light of progress made.

18. The SALT does not consider it appropriate to be too prescriptive in quantifying the therapy. The SALT prefers to quantify the involvement of a therapist in terms of a minimum number of hours in the knowledge that the provision could be for a greater number of hours should the need arise.
19. In summary therefore, the SALT quantifies the provision of Speech and Language therapy as being a visit once each half term for a minimum of sixty minutes per visit to include modelling, discussion of the IEP targets and advice to staff and class teachers. In addition it was proposed to meet with the Parent (either in school or at home) for a minimum of thirty minutes each half term. The involvement will also include the writing of timely reports, attending the annual review and on-going assessment of the Child's strengths and capabilities. In addition, when considered appropriate, they would undertake a formal assessment of the Child. This assessment however is not included within the sixty minutes allocated for half termly visits. In effect therefore the SALT is proposing a minimum of ten hours per academic year of Speech and Language therapy.
20. The Parent argues that the proposals contained in the report by the Consultant Speech and Language Therapist should be adopted. They considered that the time had come to change tactics as the provision previously made had been ineffective and that the Child had made inadequate progress. Although it reports that the Child has made some progress during the last term, the Parent does not consider this to be the case.
21. The recommendations made provide for a minimum of thirty five hours support during the academic year by a Speech and Language therapist. This includes direct speech and language therapy on a one-to-one basis once a week for thirty minutes (amounting to fifteen hours per year). It suggests that the Speech and Language therapist will require three hours per term for programme writing, a further eight hours for advice and teaching and three hours for report writing and attendance at the annual review.
22. The Parent argues that the time had now come for intensive direct therapy to be provided to enable the Child to make up lost ground. The

Parent believes that the model of delivery proposed by the SALT has been attempted previously and has not been successful.

23. The tribunal agrees that Speech and Language therapy is an educational need for the Child and makes a finding to that effect. The first issue for the tribunal to consider is whether or not the direct or the consultative model is appropriate. In this regard the tribunal accepts the argument of the LA. The tribunal does not consider that direct therapy would be effective for the Child at this stage because of the nature of the Child's difficulties. It does not follow that a more intensive approach will necessarily give a better prospect of success. The Child needs to learn and to be taught in a natural situation with people with whom the Child is familiar. Adopting an intensive direct approach is unlikely to work with the Child because of the Child's speed of learning, and indeed such an approach could have a detrimental effect. The tribunal accepts the evidence given by the SALT that the progress that the Child will make is always likely to be slow. The delivery of programmes by the classroom staff throughout the day is far more likely to lead to positive results given the Child's speed of learning. Thereafter reviews on a six-weekly basis will provide a better indication of the progress that the Child has made. It is also the case that the provision now proposed by the LA is substantially greater than what has previously been provided through the NHS Speech and Language Therapy service and accordingly it cannot be said that the provision outlined by the SALT has been tried and failed in the past.
24. Whilst remaining mindful of the need for specificity, the tribunal also accepts that a degree of flexibility is required, given the nature of the Child's difficulties and the educational setting in which the Child is placed. The tribunal considers it appropriate therefore to set a minimum number of hours and concludes that a minimum of ten hours per academic year will allow sufficient time to deliver the provision required to meet the Child's special educational needs. It is also noted that the SALT anticipates that additional work may be required as and when the Child makes progress and if it becomes appropriate to undertake formal standardised testing.
25. The tribunal accordingly approves the provision proposed by the LA which amends the provision currently contained in the statement.
26. The provision for Speech and Language therapy will therefore include the following paragraph :

*The Child will receive a minimum of ten hours speech and language therapy each year to include:*

- > *A visit by the Speech and Language therapist once each half term for a minimum of sixty minutes per visit to include modelling, discussion of IEP targets, advice to staff and class teacher*
- > *A meeting with the Child's Parent each half term for a minimum of thirty minutes (either in school or at the family home)*
  - > *The writing of reports*
  - > *On-going assessment of the Child's strength and capabilities*

*When appropriate a more formal assessment of the Child's attainments will be undertaken (the time for such assessment will be in addition to the sixty minute half-termly visits)*

27. The tribunal also accepts the additional wording agreed between the parties as set out in part 3 of the working document.

28. The appeal is therefore allowed to the extent set out above.

**ORDER:** Appeal allowed.

1. Amendments of Part 2 of the Statement were attached to the original decision.

Dated February 2013