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DECISION

Date of Birth:	2001	
Appeal of:	The Parents	
Type of Appeal:	Contents of a Statement of SEN	
Against Decision of:	The Local Authority	
Date of hearing:	2012	
Persons Present:	Parents	<i>Parents</i>
	Parents Representative	<i>IPSEA Volunteer</i>
	Parents Witness	<i>Occupational Therapist</i>
	LA Representative	<i>Principal SEN Officer</i>
	LA Witness	<i>Educational Psychologist</i>
	LA Witness	<i>Head Teacher</i>

Appeal

The Parents appeal under Section 326 of the Education Act 1996 against the content of a Statement of Educational Needs written by the Local Authority in respect of their Child.

Facts

1. The Child was born in September 2001, and is presently 11 years of age. The Child has a diagnosis of Asperger's Syndrome and motor coordination difficulties. The Child also has specific learning difficulties, as a result of which the Child has struggled to achieve literacy and numeracy skills. The Child also has a significant weakness with processing speeds, working memory, and difficulties with copying and visual processing. These cause the Child to have problems with concentration, organisation and social interaction. The Child also has difficulties with fine motor skills and handwriting.
2. The Child is a pupil at School A, which is a maintained school.
3. A statutory assessment for the Child was requested by the Child's Parents in May 2011. After several months of discussion the Local Authority agreed to carry out a statutory assessment. Between October 2011 and May 2012 several Statements were issued in respect of the Child. The final Statement is dated May 2012. We note that the process has taken a very long time. The Parents now appeal against the contents of Parts 2 and 3 of this Statement.
4. The parties have continued to discuss matters and we have very helpfully

been provided with a Working Document that clearly identifies the areas still in issue.

5. In arriving at our decision we have taken into account section 326 of the Education Act 1996, the Special Educational Needs Code of Practice for Wales, and all the evidence that we have read and heard.

6. Late Evidence –

An application was made on behalf of the LA for late evidence to be admitted. This comprised of a report from a Specialist Teacher, dated September 2012, a report from another Specialist Teacher, dated October 2012, a report from another Specialist Teacher, dated September 2012, and an individual programme of support compiled by the Autism support team. It was initially agreed by consent that these documents should be admitted as late evidence. Subsequently it was realised that one of the reports had not been seen by the Parents or their Representative. A copy was provided, and time allowed for this report to be read, following which it was agreed that this too could be admitted into evidence.

7. Decision-

We were greatly assisted by the provision of a Working Document, which both parties had worked hard to create, as a result of which many areas of dispute had been resolved. We record our thanks for the work carried out.

8. Some areas of dispute still remained. A number of these were agreed during the course of the hearing. Four issues remained outstanding. We will take those in turn.

9. Amount of Teaching Assistant Support –

The Parents argued for full-time one-to-one support, not only during lessons, but also during break times and lunchtime. They were concerned to maximise assistance to the Child during lessons, so that the Child stayed on task, understood what was required of them, and was assisted to record their work. They also wanted the Child to have assistance with learning Social skills, and putting those skills into effect. We appreciate that they were anxious to make sure the Child should make as much progress as possible during the 2 and a 1/2 terms that remain before the Child's move to Secondary School. They also recognised, however, that having a teaching assistant "velcroed" to the Child would not be appropriate either.

10. The LA argued for a lesser level of support. Initially they suggested some 13 hours of support per week. During the course of the hearing, however, and having considered all of the support required by the Child, and the programmes which the parties agreed contents of the statement required to be carried out with the Child, the LA increased the number of hours to 22. This would result in the Child having supported lessons during the whole of the morning at schools, except on Mondays during the Child's IT skills

lesson, for sessions of social skills group work in the afternoon, during PE lessons, and during some break and all lunchtime sessions. In their view this was sufficient to meet the Child's needs, but would also allow the Child some lessons when the Child would be required to learn independently, which in their view was important, particularly as the Child is soon to start secondary education.

11. We agree with the LA that it is important that the Child is allowed to develop their independence. The Child needs to have some opportunity during the week for managing and structuring own work. We note the Parents' view that even if full-time support were to be provided for all of the school day the TA would need to step back so that the Child could achieve independence. It is our view that the full-time support argued for by the Parents would not allow for this, and is likely to work to the Child's detriment as a result. Some time each week without support will enable the Child to put into practice the strategies the Child has been learning, both in relation to social skills, and in relation to the Child's studies. Having considered all of the work that is required with the Child in order to meet the Child's complex needs, we have come to the conclusion that, rounded up, 23 hours per week is the correct number of hours of support. In our view this will enable social skills, occupational therapy, literacy and numeracy work to be carried out with the Child, and ensure the Child is supported during the majority of lessons, including PE and Welsh. It will also ensure that the Child is supported during the majority of break and lunchtimes and allow the TA an hour a week for preparation and liaison with expert teachers and the Child's Parents. Additionally, it will also allow the Child some lesson time when the Child is required to work independently.

12. Specialist Dyslexia Teacher/Withdrawal Daily for Literacy Support –

In spite of the Child's complex difficulties, we are of the view, based upon the most recent test results, that the Child has been making progress. In reaching this conclusion we have in mind in particular the test results that are set out in the Specialist Teacher's report dated September 2012, which show an increase in standard scores and percentile rankings in terms of test results. These results are also better than those achieved in September 2011 as set out at page 110 in the bundle in the report of the Educational Psychologist dated September 2011. The Child's scores are now at the low end of the average range. We also note that the Child has an excellent working relationship with their TA, enjoys spending time with the TA, and rates time spent with the TA very highly.

13. The Child's Parents are concerned to ensure the maximum possible progress, which is fully understandable, particularly bearing in mind the failure of the LA in this case to ensure that all the provision set out in the statement has been provided in the past. The Parents therefore argue that the Child should be withdrawn for half an hour every day for literacy support, in addition to withdrawal for numeracy support.

14. The LA argued that the Child now has a more acute need for numeracy work to be carried out with them, given the progress that the Child has made with literacy skills. They also pointed out that whilst withdrawn from lessons the Child is missing out on other work in class.
15. We find that the Child has progressed well since they have had an increased level of support. That support has not been from a teacher with a dyslexia qualification, but rather from a trained teaching assistant with the support and guidance of the classroom teacher, and the specialist teachers. In the circumstances we do not accept that a specialist dyslexia trained teacher is required to meet the Child's needs. The Child is clearly working well with their present TA, and that work should continue to be supported and encouraged.
16. Further, we accept that it would be inappropriate at present for the Child to be withdrawn for literacy support every day. The current LA proposal is that the Child is withdrawn for literacy support twice a week and numeracy support 3 times a week. In view of the Child's progress with literacy skills, and the Child's remaining deficit in terms of numeracy skills, we find that this is the correct balance of support during withdrawal sessions at present. The Child will, of course, also receive support during English and Maths lessons. The Child will be having English or Maths every day as a result, with the exception of Mondays, and on some days twice a day.
17. Disapplication from French and Welsh –

The LA point out that the Child is not currently studying French and therefore cannot presently be disapplied from it. We accept this argument.
18. The Child is studying Welsh, however, and has either one or two lessons a week, depending upon the timetable. The Parents argue that the Child does not understand Welsh, and dislikes Welsh lessons. They suggest it would be more appropriate for the Child to do other work, particularly in relation to literacy and numeracy skills, during Welsh lessons. The Head Teacher (LA Witness) gave evidence that the Child did enjoy Welsh lessons.
19. The LA argues that the Child is attending a bilingual school, and that the school is required by guidance from the Welsh Assembly Government to integrate the Welsh language into the curriculum, and not just teach Welsh during Welsh lessons. The Head Teacher (LA Witness) at the Child's school, told us that words and patterns of speech taught during Welsh lessons are reinforced and used in other lessons as part and parcel of the curriculum. The Head Teacher (LA Witness) explained that the Child would find some of the other lessons more difficult to understand and follow if they had not learnt these words and patterns of speech during Welsh lessons.
20. We regard this as a particularly finely balanced decision. We acknowledge the need for the Child to make as much progress as possible during the remainder of junior school education. On the other hand, the Child attends a bilingual school, and is resident in Wales. Further, Welsh lessons provide

some variety in the Child's weekly timetable, which is already heavily geared towards English and Maths.

21. We have concluded that the support that will be in place after this hearing will be sufficient to meet the Child's needs, and there is therefore no need to disapply the Child from Welsh on this basis. We also are of the view that it is important that the Child has some knowledge of the Welsh language, and that the Child should not feel even more excluded than is already the case by coming out of Welsh lessons. Welsh lessons also provide some additional variety to the Child's timetable. We therefore do not accept that the Child should be disapplied from Welsh.

22. Compliance –

During the course of the hearing we noted that issues have arisen in relation to the LA ensuring that the Child is actually provided with what is set out in the Statement. We also heard evidence that there are continuing difficulties in providing the Child with a quiet withdrawal space, and an alternative area for the Child to eat lunch in. We trust that these issues will be attended to by the LA urgently and without the need for the Parents to bring proceedings in another jurisdiction.

Conclusion:

Accordingly, the Statement of Special Educational Needs in respect of the Child is amended in accordance with the draft annexed hereto.

Order:

The Statement of Special Educational Needs maintained in respect of the Child is amended in accordance with the copy annexed hereto.

Dated October 2012.