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Decision

Date of Birth: 1992
Appeal of: The Parents
Type of Appeal: Contents of a Statement of SEN
Against Decision of: The Local Authority
Date of hearing: 2010
Persons Present: The Parent *Parent*

Appeal

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

Facts

1. The Child was born in February 1992 and is presently 18 years of age. The Child lives with their family.
2. The Child has attended School A since 2001 as has learning disabilities, is on the autistic spectrum, and has a severe speech and language disorder.

The Child is currently in the “Leavers Class” at the school, and the Parents are currently seeking a college placement for the Child.

3. A dispute arose between the Parents and the Local Authority as to the contents of Part 2 and 3 of the Child’s statement, and in particular as to the provision of speech and language therapy on an individual weekly basis. That provision was removed from the Child’s statement when an amended version of it dated August 2010 was produced by the Local Authority.
4. The Local Authority has chosen not to oppose this Appeal.

Tribunal’s findings with Reasons

1. The Local Authority have produced a further proposed amended statement making certain concessions in respect of this appeal which has narrowed the issues that we need to decide. There remain some outstanding issues, however, and we will take those in turn.

Bowel Problems

2. The Parents wish the words “The Child has experienced periods of sickness over the past years, relating to bowel and gastro-enteritis type symptoms. At times there have been concerns about the Child being underweight”. They wish this to be inserted under the Medical, Physical and Sensory heading in Part 2 in place of the words crossed out in that paragraph under the Local Authority’s proposed amended version. We heard evidence from the Parent, that the wording the Parents wish to have inserted is a reflection of the factual situation. The Parent told us that during the course of this year, the Child has had quite a good year, but has recently run into problems again with their bowels. The school has therefore referred the Child again to a paediatrician who will see the Child in two weeks time. The Parent told us that this type of condition flares up on occasions, so far as the Child is concerned, and is typical of autistic children who have bowel difficulties.
3. We accept that the Child has this difficulty, and that it is of relevance to their education in that there are occasions the Child is going to be absent and missing lessons because of their illness, and also because staff will have to be aware of this difficulty in dealing with the Child at times at school. We therefore add the wording after the words autistic spectrum condition on page 3 of the Child’s statement under the heading Medical, Physical and Sensory.

Social Interaction

4. The parents wish some wording to be added to the present content of the Behaviour, Emotional and Social Development paragraph on page 3 of the proposed amended statement. That paragraph contains the following words:-

“School reports that the Child continues to interact well with and the Child is sensitive to the needs of their peers.”

5. The paragraph is also positive about the Child’s social functioning. It is pointed out to us, however, that the level of social interaction and functioning should be seen within the parameters of the Child being on the autistic spectrum, and attending at a special school. The parents contend that it would be appropriate, accordingly, for the words, “*within a special need setting*” to be added to the sentence I have set out above after the words “*peers*”. We accept that this wording should be added. It puts the Child’s functioning socially into context. It underscores the fact that the Child would struggle outside of the special school context in terms of social functioning.

One to One Speech Therapy

6. The Parent was able to tell us that they were happy with the wording contained in the proposed amended statement at page 78 in paragraph 7. This provides for speech and language therapy from a speech and

language therapist 3 times a week on an individual basis. The Parent was concerned, however, that this provision should continue for the remainder of the Child's time at school, which would be through into July 2011. The Parent thinks it is important that individual therapy should continue because, although progress is slow, the Child has been progressing towards targets. The Child is now able to say sounds that they could not previously. The difficulty, presently, is in generalising the new skills that the Child has learnt. Effectively, the regime that would seem best suited to meeting the Child's needs requires both individual therapy to continue to teach the Child the skills that they need, and a holistic approach from other school staff and the Parents to help the Child generalise the skills that the Child has learnt. The Parent suggests that some reference needs to be made to the Child's progress. We accept this is consistent with the reports we have seen.

7. In addition to the progress that has been made, the Parent wishes the wording to clearly state that the provision should continue to the end of the Child's school career because of what has happened in the past. It is apparent from the papers, and what the Parents told us, that although the Child's Statement provided for one to one individual speech and language therapy, the school was not providing this. This appears to be as a matter of policy. We accept that the failure to provide individual speech and language therapy has not adequately met the Child's needs. The Child's speech and language difficulty, we are told, and the papers support this, is more severe than most of the Child's school associates. It is of course, the Local Authority who has the responsibility of ensuring that the provision set out in the Child's Statement is met. We note that when the Child has been assessed, speech and language therapists have confirmed that it is appropriate that one to one individual therapy should continue because of the severity of the Child's difficulties. We are therefore perturbed to learn that the Local Authority failed to ensure that the provision set out in the Statement has not been provided. Against this background, it is hardly surprising that the Child's parents now wish the wording to be unambiguous in terms of the period over which speech and language therapy should be provided.
8. We also note that under the monitoring section of the proposed statement, at page 79 of our bundle, a further assessment of the Child's speech and language development is to be carried out in January 2011. The Child's parents have no objection to this, but are concerned lest this should result in a reduction in the speech and language input that the Child is to receive. Given the level of the Child's difficulties, and the clear evidence that the Child requires individual speech and language therapy, as set out in the reports seen, we cannot see that any reduction in the Child's individual speech and language therapy will be justifiable prior to July 2011.
9. For the above reasons, we find that it is appropriate to amend Paragraph 7 under Part 3 of the proposed amended statement at page 78 of the bundle so that it reads as follows:-

“A qualified Speech and Language Therapist would provide 3 x 15 minutes individual therapy sessions per week for the Child to assist them in learning and consolidating new skills. These will aim to improve the Child’s speech sound system and a speech programme will be provided to the school to be carried out by the school staff and also to parents for use at home to help the Child to generalise new skills.”

ICT Equipment

10. At Page 79, paragraph 11 of the proposed amended statement, there is reference to the Child’s access to ICT equipment. We note the evidence contained at page 23 of the bundle, being advice from the school, that the Child is using an adapted keyboard, a finger guard, and an adapted mouse. The Child’s parents request that paragraph 11 is amended to include this, and given the school’s evidence we accept this is appropriate. Paragraph 11 will therefore be amended to read:-

“The Child will access appropriate ICT equipment, including an adapted keyboard with finger guard, and adapted mouse, in order to produce legible work.”

Monitoring

11. The proposed amended statement at page 79 in the bundle has a heading Monitoring. A portion of paragraph 8 on page 78 also makes reference to monitoring, and we think that reference is better set out under the monitoring section on page 79. We therefore find it appropriate to remove the wording *“carefully monitored by teaching staff who will be working with the Child”* from paragraph 8 on page 78, and adding a further bullet point under the monitoring section on page 79 to read: *“The Teacher working with the Child will carefully monitor his Individual Education Plan”*.

Ensuring Delivery of The Content of the Statement

12. We have commented above about our concerns that the Local Authority has failed to ensure that the speech and language therapy provision set out in the Child’s Statement has previously been provided to the Child. It is the Local Authority’s responsibility, of course, and not the school’s to ensure this is provided. There may well be a link between this failure and the evidence given to us by the Parent that the Local Authority did not attend some of the Child’s Annual Reviews at the school. If it had done, it might have realised that it was failing in its duty to ensure that the Statement was up to date and appropriate, and that the provision was actually being provided to the Child.

Conclusion

13. The Appeal is allowed and the statement of the Child is amended in accordance with the wording set in this decision.

ORDER

The Statement of Special Educational Needs maintained in respect of the Child is amended in accordance with the wording set in this decision.

DATED NOVEMBER 2010