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DECISION

Date of Birth:	1998	
Appeal of:	The Parents	
Type of Appeal:	Against the contents of a statement of SEN	
Against Decision of:	The Local Authority	
Date of Hearing:	2012	
Persons Present:	Parents	<i>Parent</i>
	The Parents	
	Representative	<i>Solicitor</i>
	Local Authority	
	Representative	<i>Casework Officer</i>
	Local Authority	
	Witness	<i>Educational Psychologist</i>

Appeal

1. The Parent appeals under Section 326 of the Education Act 1996 against the contents of a Statement of Educational Needs (the statement) dated 2011 and written by the Local Authority (LA) in respect of the Child.
2. The Child now prefers to use their middle name rather than their original first name. The Child lives at home and has two siblings. The Child has a diagnosis of dyslexia and has behavioural and emotional difficulties. The Child has been assessed for a diagnosis of autism but found not to be autistic.
3. The Child was educated at home from the age of 8 until 2011, when they commenced school, which is a specialist school for pupils with behavioural difficulties. The Child has made an excellent start. Following an assessment after 6 weeks everyone has agreed that the Child should continue to attend. The Child continues to make good progress there and is happy at school. It has also been agreed that School A be named in Part 4 of their statement.
4. There are still outstanding issues in relation to Parts 2 and 3 of the Statement, however, which we have been asked to adjudicate upon. We will address those in turn.

Preliminary Issues

5. We were asked by the Local Authority Representative on behalf of the Local Authority to admit late evidence, comprising a list of late evidence with comments, some e-mail's, some notes relating to Speech and Language Therapy, a report by an Educational Psychologist, a

report by an Occupational Therapist dated 2011, minutes of a Review of the Child's placement at School A and a report from a Local Authority Officer. With the exception of the Education Psychologists report, all of the documents were unavailable at Case Statement date, had been served and filed more than 5 clear days before today, and in our view did not impede the efficient conduct of the hearing. Further, no objection was made to any of these documents being received into evidence.

Accordingly we accepted them into evidence pursuant to Regulation 33(2) of the Special Educational Needs Tribunal Regulations 2001.

6. The report of the Occupational Therapist was clearly available as at the Case Statement date. It could not be admitted under Regulation 33 (2) therefore. Having heard submissions, we concluded that it was not wholly exceptional, and there was no risk of serious prejudice to the Child's case if we did not admit it, not least because we had in evidence a report from the same author dated 2011.

Tribunal's Findings with Reasons

7. 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 of the evidence we have read and heard.
8. Two of the issues contained within the latest version of the Working Documents with which we were provided were resolved following discussion at the hearing, and there remained no issue within Part 2 of the Statement as a result.
9. The history of this case has been one of dispute between the LA and the parents. We note that the Child has not always attended for appointments, which has complicated the receipt of therapy, and the Parent has not always been informed of appointments. We hope that now the Child has made a good start at School A the parties will be able to work collaboratively with the School to ensure the Child's needs are fully met.
10. No witness from School A was present at the Tribunal hearing. It would have been of assistance to have had a witness from the school to tell us what they could provide for the Child having regards to the expert evidence filed.
11. In relation to Part 3 the main items in dispute related to Speech & Language Therapy (SALT) and Occupational Therapy (OT). We were somewhat hampered by the lack of a witness who was an Occupational Therapist or a Speech and Language Therapist, and by the failure of those who provided reports to make any comment upon the reports filed by others. We were effectively left with reports in parallel with no assistance as to what the writers thought of each other's views.

Speech and Language Therapy

12. Two areas of speech and language difficulties have been particularly identified, namely the production of some speech sounds, and the Child being able to express them as they wish. In relation to the former, given the length of time that the Child has continued to experience difficulties with their sound production and their age, we find that it is likely more than one block of therapy will be required. We therefore find the Child needs a block. This work is urgently required and should continue until the Child's sound production problems have been resolved.
13. The Parent is of the view that the Child still has difficulties with expressing themselves. The Child is making good and rapid, progress at school, however. The test results produced by a Speech and Language Therapist (SALT) are not conclusive, in that the majority of children fall within the scores achieved by the Child. Further, neither of the reports from the Educational Psychologist suggests any real concern about the Child's ability to express them self. The Educational Psychologist in evidence stated that the Child didn't have any real difficulty in expressing themselves when they assessed the Child, although we accept that the Educational Psychologist did only see the Child for a couple of hours. We were not persuaded by the evidence that the Child has a significant difficulty with expressing themselves. This area will no doubt be further assessed by the Speech and Language Therapist that works with the Child in the near future.
14. The Child has been home educated for some years. The Child needs to be in school regularly, as all agree. The Child requires a holistic approach that is set out in a programme and a Teaching Assistant will need to be trained in how to support the Child so they can learn to apply what they have learnt at school. It is agreed that the programme needs to be overseen by a Speech and Language Therapist.
15. We have difficulty in understanding how the SALT has arrived at SALT provision of 35 hours per year. We only have the SALT report, and it contains no explanation as to how this figure has been arrived at. The Child may need this level or provision, and indeed may receive it if the Child received more than one block of therapy and the support of a programme of activities and with liaison with the school. As we cannot see a clear evidence base for this figure, however, we do not think it appropriate to include it in the Child's statement. We find that it is sufficient in this case to include at least half termly review. The latter was agreed in discussion at the hearing.
16. We have also been asked to consider whether therapy should be provided in clinic or at school. The Child is making good progress. The Child needs to be in attendance at all lessons for this to continue, not least as the Child has commenced work on some of the GCSE syllabus. Attending for a half hour session of SALT at a clinic would probably involve at least one and a half hours absence from school. We also note the Parents concern regarding the Child's safety following their arrival at a clinic if unattended once the Child leaves the taxi. We have concluded

that the Child needs to be in receipt of therapy in school with as little impact upon their lessons as possible.

Occupational Therapy

17. The fullest report we have been provided with is an old report dated 2009. It confirms that the Child has certain difficulties. We are concerned that it does not detail the Child's current position. The Child was then of primary school age and being home educated. The Child is now older, is around the age of puberty, and in specialist school. The Child now plays football, albeit in goal. We also heard, however, that the Child still has difficulty in sitting still and straight at a desk working. On behalf of the Parents it was accepted that the Child did not need a vestibular proprioceptive treatment programme. On behalf of the LA difficulties which would require OT were agreed as set out in Part 2 of the Statement.
18. The report filed upon by LA as compiled by the Educational Psychologist was dated 2011. It makes reference to a programme although it does not specifically say one is required. The Parents are of the view that the Child needs daily OT input.
19. We have concluded that the Child needs a programme of activities and strategies to improve the Child's functioning in school to be provided by an Occupational Therapist. We think it is important that the Child not be removed from lessons for this work. The OT programme should be carried out at school for the same reasons as set out above and integrated into the Child's school day around their lessons. We agree with the implicit suggestion in the Educational Psychologists report, at page 33 of the bundle, that review of OT should be termly.
20. Lastly, given the rapid progress that the Child has made to date, we find that the Child's Individual Education Plan should be reviewed half-termly in order to take proper account of the speed of the Child's progress. There is otherwise a danger that the Plan will become out of date and of limited use.

Conclusion

21. Accordingly the Statement of Special Educational Needs in the case of the Child is amended in accordance with the draft annexed hereto. In addition the first name of the Child should be substituted for the middle name throughout the Statement.

Order

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

Dated: January 2011