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DECISION

Date of Birth:	2006	
Appeal of:	The Parent	
Type of Appeal:	Contents of an amended Statement of SEN	
Against the Decision of:	The Local Authority	
Date of Hearing:	2013	
Persons Present:	The Parent	<i>Parent</i>
	Parent Representative	<i>Solicitor</i>
	LA Representative	<i>Barrister</i>
	LA Witness	<i>Teacher</i>
	LA Witness	<i>SALT</i>

Appeal

1. The Parent appeals under s. 326 of the Education Act 1996 against the contents of an amended Statement of Special Educational Needs issued by the Local Authority in respect of their Child. The amended Statement is dated August 2012. The appeal relates to Parts 2 and 3 of the Statement.

Preliminary issues

1. The Parent applied to admit late evidence under Regulation 50 of the Special Educational Needs Tribunal for Wales Regulations 2012. This consisted of PEP3 psycho-educational profile test results relating to the Child that had been carried out in January 2013, together with an analysis of these results. The Tribunal received the documents in March 2013. The LA Representative agreed to the admission of the documents. The Tribunal therefore decided to admit them under Regulation 50 (1) (a) of the Special Educational Needs Tribunal for Wales Regulations 2012.
2. The Parent also applied to admit a second Working Document. The Tribunal received this in March 2013. The Document builds upon the agreed Working Document of February 2013, which the parties submitted in line with the Directions that were made following the adjournment of the hearing of this case in January 2013. The LA Representative agreed to the admission of the document. The parties were in agreement that the document would work alongside February's Working Document and inform discussions at the hearing. The Tribunal decided to admit the document into evidence under Regulation 50 (1) (a) of the Special Educational Needs Tribunal for Wales Regulations 2012.

3. The parties confirmed that they had reached agreement concerning the disputed aspects of Part 2 of the Child's Statement. The parties also confirmed that they had reached agreement over some of the disputed aspects of Part 3 of the Statement. The parties confirmed the issues that remained in dispute related to the provision of Learning Support Assistant time, to speech and language and communication provision and to occupational therapy provision.
4. Whilst clarifying the outstanding issues with the parties the Tribunal noted that throughout the amended Statement of August 2012 and the 2 Working Documents the Parent has been given the title of "Mrs." As the Parent gives their title as "Miss" in the Notice of Appeal the Tribunal sought clarification as to which title the Parent wished to use. The Parent confirmed that the title of "Miss" is the correct title. The parties therefore agreed that the Parent should be referred to as "Miss" throughout the Child's Statement and it was agreed that the Statement should be amended to reflect this.
5. In addition, whilst acknowledging that it has no jurisdiction to make orders in respect of Parts 5 and 6 of statements, the Tribunal noted the reference to input and advice from the Child Development Advisory Service, which is commonly known as the Portage Service, in Part 6 of the original amended Statement and in both Working Documents and queried with the parties whether this provision was still being made. The parties indicated that the Service is no longer involved with the Child and the Child's family and it was agreed that the reference to this input should be removed from the Statement. Similarly, the amended Statement and the 2 Working Documents make reference to the Child having access to a child minder. It was agreed that this is no longer being provided and that the reference to this provision should be removed from the Child's Statement.

Facts

6. At the time of the hearing the Child was 6 years old.
7. The Child's special educational needs are now agreed. As indicated above the parties agree that the description of the Child's needs as set out in the Working Documents of February 2013 and March 2013 (which both describe the same needs and which are in essence the same) should be reflected in Part 2 of the Child's Statement and the Statement should therefore be amended in line with the Working Documents.
8. In summary, it is agreed that the Child is Autistic. The Child is noted to be delayed developmentally. It is agreed that the Child has severely delayed attention and listening skills and that the Child has severely delayed expressive and receptive language skills. It is agreed that the Child has severe social communication and interaction difficulties and that their play skills are severely delayed. The Child is noted to have limited self help skills and is not toilet trained. It is accepted that at present the Child is unable to generalise learning from one setting to another.

9. It is accepted that the Child has marked sensory difficulties. The Child is noted to seek sensory feedback from applying pressure to the Child side for extended periods of time. The Child is also reported to be constantly seeking movement. As a result the Child is extremely active, is constantly on the move and likes to climb. The Child is also reported to struggle with the texture of some foods and the Child's preference is to eat dry, crunchy foods such as cereal and dry toast.
10. The Teacher undertook a PEP 3 psycho-educational assessment of the Child's functioning in early 2013. The Teacher told the Tribunal that the results confirm that the Child is severely delayed in most areas of their development. Results suggest that the Child is currently functioning at the developmental age of between 12 months – 27 months across the performance subtests that were measured. However, the tests also suggest that the Child has a relative strength in social reciprocity.
11. The Child has a heart murmur and a diagnosis of pulmonary stenosis for which the Child is under cardiological review. The conditions do not cause the Child any difficulties. The Child also has inspiratory stridor and the Child breathes heavily at times.
12. In the pen pictures of the Child that the Parent and the Teacher gave to the Tribunal the Child was described as being a generally happy child who is a bundle of energy. They both described the Child as extremely active and as sometimes seeking to push boundaries. They reported that the Child has no sense of danger. They said the Child will try to climb anything and everything frequently and the Child will regularly try to run away. The Child is reported to be adept at opening windows and doors, even those with catches.
13. They also described the Child as being into everything, such that, if unsupervised and when not trying to climb or run away, the Child will try to open containers/packets/boxes in the kitchen or bathroom at home leaving a mess everywhere and similarly at school the Child will play with the water or sand and it will be everywhere. The Parent described how the Child has recently started to smear the content of the Child's nappy at times.
14. The Parent and Teacher both agreed that the Child is tall for their age and is slim and very muscular and very fast. They both said that the Child likes rough and tumble and chasing games.
15. The Parent said that the Child still has a tendency to mouth things. The Parent and the teacher agreed that the Child continues to have particular issues relating to food. They both said that in order to get what the Child wants the Child's preferred method of communication is to push or pull an adult to the Child's desired object. They said the Child continues to show little interest in other children with the exception of one child in the Unit who the Child sometimes engages when the Child wants to play chase. The Child does not appear to recognise the Child's brother when the Child

sees them in school. The Child is able to engage with adults but this tends to be on the Child's terms and is able to give eye contact.

16. The Child is reported by the Parent and Teacher to have made small but significant progress in some areas of the Child's development. The Child still has no speech but the Parent and Teacher told the Tribunal that the Child is vocalising more. The Teacher said that the Child is now starting to copy single words used by adults and can understand some single words in context and is being encouraged to say certain words in context. The Teacher said that the Child's attention and focus has improved a little and the Child can now attend to a task the Child is interested in with adult support for up to 10 – 12 minutes on one of the Child's good days. The Child is now reported to be eating some food in school, with Cheerios on the side as an incentive.
17. The Parent told the Tribunal that at weekends they tend to take the Child and siblings to a local Soft Play Centre, where they are able to run around safely. The Parent said it is not possible to go shopping with the Child because the Child does not respond well to large numbers of people and also tries to run away. The Parent said the Child is not able to take the Child to Church for similar reasons. As a result the social life of the family is limited.
18. In terms of relationships with siblings the Parent said that the Child and oldest child tend to have limited interaction because they both prefer to follow their own interests. The Parent said that the Child will engage more with other siblings because the children are prepared to play rough and tumble and piggy back games which the Child likes.
19. The Parents told the Tribunal that the Child does not receive any additional support from the Local Authority or from any other source to help the Parent care for the Child and siblings.
20. The Child attends the Autistic Spectrum Disorder Unit that is attached to School A. This is specialist provision for primary aged children that is maintained by the Local Authority.
21. The Child has attended the School since September 2011. The Child is in the Foundation/Key Stage 1 class. The Child is reported by the Parent and by the Teacher to like going to school.
22. The Teacher told the Tribunal that the Unit has 2 classes (a Foundation/Key Stage 1 class and a Key Stage 2 class). Each class has up to 6 children. In the Child's class there are presently 6 children including the Child. The Teacher said that all of the children in the Child's class have similar needs to the Child, although they said they felt that the Child was probably more gregarious than some of the other children. The Teacher said that, as standard, each class is staffed by 1 Teacher and 2 full-time Learning Support Assistants. In addition, in the Foundation/Key Stage 1 class in which the Child is placed there is an additional 0.5 teaching Assistant to support the Child. This support covers morning

sessions. In the Key Stage 2 class in addition to the standard staffing provision there are currently 1.5 additional Learning Support Assistants in post to support the specific needs of 2 of the children in the class.

23. The Teacher explained that the Local Authority has misquoted the staffing levels at the Unit for the current year. The Teacher said that the figures given by the Local Authority applied to staffing levels in the previous year, which had been greater because of the needs of certain children who had then been attending the Unit. The Teacher said that as these children are no longer at the Unit the greater staffing levels quoted by the Authority no longer apply. The Teacher also explained that as they are the Teacher in charge of the Unit, in addition to being the Class Teacher for the Child's class, the Teacher is regularly called away from the classroom to deal with administrative and management issues and as a result staffing levels in the Child's class are sometimes less than the standard figure the Teacher has quoted.
24. The Teacher took the Tribunal through a typical school day and described the facilities at the Unit. The school day runs from 9.00 – 3.00 and there is a play break and snack at 10.30, lunch is at 12.00 and soft play is between 1.00 – 1.30. Play break takes place in the garden attached to the Unit. Lunch is taken in the Main School Hall. Soft play takes place in a specially adapted room that is separate from the Unit. School days are structured so that the children focus on their more formal learning in the morning and then in the afternoon after soft play they carry out craft based activities. The Unit adopts a TEACHH approach to the work it carries out with the children in the Unit. The Child has a visual timetable and own workstation to carry out work. Each classroom has a satellite space and under adult supervision the Child is allowed to use this space for regular movement breaks and to help to try to keep calm. The Unit also has a library and computer room that the children use regularly and a sensory room and it has a therapy room.
25. The Teacher said that throughout the day the Child requires adult input to meet all the Child's needs. The Teacher said that the Child needs direct adult support to be able to use a visual timetable and carry out work at their workstation. The Teacher said that even during the unstructured times of the day the Child requires direct adult input to remain calm, so as to be able to focus and engage safely in the activities taking place at these times and so as to ensure that the Child does not run away or attempt to climb and put them self in danger. The Teacher said that during lunch the Child needs a member of staff at their chair so the Child sits and is encouraged to eat. The Child also needs help with self care throughout the day. The Teacher told the Tribunal that without this continual input the Child will seek activity through climbing on and over furniture and people and by trying to run away, or in more quiet moments the Child will quickly lose focus and seek to engage in self directed activities or do nothing. The Teacher referred the Tribunal to the risk assessment that they had prepared in the spring of 2012 relating to the Child and said that the conclusions of this assessment remain pertinent at the present time.

26. The Teacher told the Tribunal that staff have considerable experience in meeting the needs of children with autism (details of staff qualifications and training are set out in the Bundle) but felt that notwithstanding the current level of additional adult support being provided by the Local Authority for the Child, the Teacher and staff are unable to meet all of the Child's needs and the needs of the other children in the Unit effectively. The Teacher said that any further additional support provided for the Child would be used to ensure that a member of staff is available to support the Child throughout the day in line with the staff rota system used in the Unit. The Teacher said that the Unit used this system to ensure that children do not become overly dependent upon any one individual adult for support.
27. The Teacher explained that the Unit has an assigned Speech and Language Therapist from the Health Board Speech and Language Therapy Department who assesses the children from the Unit who are on the Department's list of patients on a yearly basis. The Therapist provides the Unit with an individual speech and language programme for each child, which school staff can then deliver. The Teacher said that these programmes are reviewed on a 6 monthly basis. The Teacher said that they found this input very helpful. The Teacher said that whilst they felt competent to implement a speech and language therapy programme, they felt that they needed support to be able to monitor speech and language progress and review provision and to set new targets. The Teacher also said that they found it helpful to have access to advice from the Therapist. The Teacher was not able to say one way or the other whether direct weekly therapy would be useful for the Child at this point in time.
28. The evidence of the Teacher was that the Child is the only child in their class not to be under the direct supervision of the Unit's assigned NHS Speech and Language Therapist and the only child in the class who does not have a programme devised by this Therapist, notwithstanding the fact that, in their view, the Child has similar needs to these children. The Teacher said that they have tried to devise their own programme for the Child based on the input that the Therapist has provided for other children and own assessments of the Child and has used this to inform IEP targets. The Teacher said they have also used the recommendations of NHS Therapist as set out in the letter of February 2012, although they said that at the present time the School is not following 2 of the 5 recommendations; the School is not using a "finished box" at the bottom of the Child's visual timetable as recommended because the Child is not at the stage at which this is appropriate and Stage 1 of PECs is not being used fully at present because the Child is now vocalising more and this seems to reduce when PECs is used.
29. The Teacher said that they feel able to devise and deliver a programme relating to social communication, as this is very much the bread and butter of what the Teacher and staff do with the children in the Unit every day.
30. The Teacher said that the Unit does not have an assigned Occupational Therapist. They said that an NHS Occupational Therapist had observed the Child in July 2012 but the Unit has heard nothing more. In the Unit

presently one child in the other class is seen by an independent Occupational Therapist and a Therapist has seen one child in the Child's class on a number of occasions. The Teacher said that staff had had some training from the NHS Occupational Therapy Department but did not feel confident to create a programme of occupational therapy and did not consider them self to be particularly confident in addressing sensory issues without additional support. The Teacher told the Tribunal that in their view the Child has significant sensory issues and has tried to use what the Occupational Therapists have said in relation to other children to address these issues. However, feels they would benefit from advice and support from an Occupational Therapist to put in place effective strategies and to set sensory targets for the Child.

31. The SALT, who is the Head of the Paediatric Team of Speech and Language Therapists within the Speech and Language Therapy Department at the Health Board, told the Tribunal that in their view the Child does not require direct input from a Speech and Language Therapist at this stage. The SALT said they had not seen the Child them self and has not been involved directly with the working with the Child and their Family. The SALT said they based their view on the information in the Therapy Service's file and based upon the papers from the Tribunal. The SALT said that the Therapy Service had been involved with the Child between 2008 and 2011 up to the point when the Child started to attend the Unit at School A. The SALT said that because the Unit is specialist provision at Tier 3 and staff have received training from the Speech and Language Therapy Service, the staff in the Unit are able to provide the Speech and Language support that the Child needs at this time.
32. The SALT said that in their view direct weekly therapy sessions from a Therapist would not be appropriate. They said that the Therapy Service has provided a programme for the Child that is set out in the recommendations made as summarised in a letter of February 2012. In their view these recommendations remain pertinent and current. The SALT said that they don't see a need for a Therapist to be involved in further monitoring and review at this time. The SALT said that if the Parent or the Unit wanted direct advice and support it is open to them to re-refer the Child to the Service and to date this has not happened. The SALT told the Tribunal that it was not appropriate to specify time limits to the work that a therapist might undertake.
33. The SALT also told the Tribunal that they would recommend that the Parent and a member of staff from the Unit participate in the Early Bird Plus course presently being run by the Therapy Service. This course applies to school aged children and is designed to support Parents and school staff in devising strategies and developing skills to support the individual needs of these children. The course runs over 8 weeks and Parents and school staff attend small group sessions on a weekly basis. There is also a 3 month follow up after the course is completed. The course does not directly involve the child concerned. The SALT said that the issue of how staff would be released from school duties to attend the course is an Authority issue and not one that they were able to address.

34. The Parent argues that the Child has significant needs across all areas of development and that the Child needs adult support throughout the day to be cared for effectively, to be kept safe and most importantly to be helped to learn and to make progress in development. The Parent has no issue with the Child's placement or with the work that staff are doing with the Child but argues that staff are over stretched and they cannot deliver the support that the Child needs without the Child having direct Learning Support input throughout the school day.
35. The Parent also argues that the Child has severe language and communication difficulties and, in line with the recommendations of the Speech and Language Therapist the Child needs direct Speech and Language therapy input from a Speech and Language Therapist and a Therapist devised programme, together with Therapist involvement in relation to assessment, monitoring and reviewing of the Child's progress. The Parent argues that the provision being proposed by the Local Authority is not appropriate and is wholly inadequate. The Parent told the Tribunal that they had taken part in an Early Bird programme for their older child and did not believe that the Early Bird Plus programme recommended would equip them any further or be effective in addressing the Child's needs.
36. On behalf of the Parent and in light of the Teacher's evidence, the Parent Representative accepted that the School is able to devise the Child's social communication programme. The Parent Representative also accepted that it would be appropriate for the Child's Statement to reflect the wording being proposed by the Local Authority in respect of the agreed Occupational Therapy assessment.
37. The Local Authority position is that it recognises that the Child has significant difficulties and that is why the Child has been placed in the specialist ASD Unit at School A. The Unit is highly staffed and staff have considerable experience in meeting the needs of children with Autism. The Local Authority has provided an additional 16 hours of individual LSA support time to the Unit over and above the high levels of support that are available within the resources already assigned to the Unit. In view of this the Local Authority argues that the high levels of support that the Child needs can be provided with these resources and there is no need for the Child to have additional individual LSA time over and above this. In relation to the provision of Speech and Language therapy support the Local Authority stands by the position taken by the SALT. In regard to Occupational Therapy provision it is accepted that the Child requires an Occupational Therapy assessment to identify appropriate provision to address the Child's sensory difficulties.
38. The Child is still very young and has significant developmental delay, language and communication difficulties and social interaction difficulties and problems in maintaining attention and focus and as a result it has not been possible for any professional who has been involved with the Child

to formally assess the Child or to ascertain the Child's views about matters directly.

Tribunal's conclusions with reasons

39. In reaching the decision the Tribunal carefully considered the written evidence submitted by the parties and the evidence given at the hearing. The Tribunal also considered relevant sections of the Education Act 1996 and supporting Regulations and relevant provisions of the Special Educational Needs Code of Practice for Wales.
40. The parties were able to reach agreement over the disputed issues relating to Part 2 of the Child's Statement. As indicated in the Facts the terms of this agreement are set out in the Working Documents of February and March 2013. Copies of the 2 Working Documents are attached to this Decision.
41. The parties were also able to reach agreement over a number of the disputed issues relating to Part 3 of the Child's Statement. Again the terms of the agreement are recorded in the Working Documents of February 2013 and March 2013.
42. In addition, during the hearing, based on the evidence given by the Teacher, the parties were able to agree a form of wording relating to who is best placed to devise the Child's social interaction programme, and it was agreed that the School should devise the programme rather than a Speech and Language Therapist. The parties were also able to agree a form of wording in relation to the agreed referral to the Occupational Therapy Service for the Child to be assessed by a suitably qualified Occupational Therapist "to determine the Child's therapy needs." The outstanding areas of dispute between the parties in respect to Part 3 of the Child's Statement therefore lay with the provision of LSA support for the Child and with the provision of Speech and Language therapy.
43. The Tribunal commended both parties for their willingness to engage in pre-hearing negotiations.
44. The Tribunal decided to endorse the agreement of the parties as outlined above save on one point in relation to Part 2 of the Child's Statement. This relates to the comment that "*The Child is not yet eating in School.*" The Tribunal felt that the evidence from the Parent and from the Teacher clearly demonstrated that the Child has now started to eat some food in school. As such the Tribunal was of the view that the wording on this matter in the Working Documents and the amended Statement of August 2012 was no longer accurate and that it should be removed for that reason.
45. In regard to the provision of additional full time support for the Child the Tribunal decided to order the additional provision being sought by the Parent. In the view of the Tribunal the Local Authority's position on this

matter lacked substance and was unsupported by the evidence that was presented to the Tribunal.

46. The Local Authority's position appeared to focus primarily on the fact that the Unit is part of the specialist provision for children with ASD in the Local Authority and as such has a high staff to pupil ratio that should be able to meet the Child's needs, rather than looking at this in light of the specific nature and severity of the Child's needs, their all pervasive nature and the evidence from the Unit concerning its ability to provide for the Child. The Tribunal considered that the evidence it had heard on these points as a whole overwhelmingly supported the Parents contention that the Child's needs are currently such as to require individual adult support from staff who have knowledge and understanding of the needs of children with ASD throughout the school day, to include all contact and non contact times and all structured and unstructured times and that this could not be provided by the 16 hours of individual adult support provided by the Local Authority together with support from within the Unit itself, notwithstanding the specialist nature of the Unit and its high pupil staff ratio.
47. The Tribunal felt that the evidence of the Parent and the Teacher relating to how the Child functions presently was consistent and compelling. The Tribunal felt that this evidence illustrated that the Child's functioning and level of understanding are presently very delayed, it showed that the Child's attention and focus is limited and it showed that the Child is physically extremely active and is uninhibited and that the Child presents a significant flight risk. The evidence also demonstrated that the Child's needs are pervasive and when looked at as a whole it is clear that they combine together to require constant adult attention.
48. The clear evidence of the Teacher was that the Child requires individual support at the present time throughout the school day in order to learn, to be cared for and to stay safe. The Tribunal talked the Teacher through a typical school day for the Child and the Tribunal felt that this clearly showed that there was no single part of the Child's day where the Child did not present with significant needs that currently require individual adult input.
49. The evidence of the Teacher was that the support being described and provided for by the Local Authority in the Statement means that the Child has guaranteed individual support in the mornings only and that in the afternoons shares support with other children in class. The evidence was that this is not sufficient to provide for the Child's needs effectively and that as a result the Child and other members of class are missing out on learning opportunities.
50. The Teacher's evidence was that the Local Authority had misquoted the staffing levels available to the Unit. The Local Authority figures were based on arrangements that had applied in the previous school year rather than in the current school year and related specifically to the additional needs of the pupil cohort that had been in the Unit at that time.

51. The Tribunal was impressed with the evidence given by the Teacher. They had been the Teacher in Charge of the Unit since 2002 and they are presently the Child's Teacher. As such, the evidence they gave is based upon direct, first hand knowledge of the Unit and of the Child. The Tribunal found the evidence to be clear, considered and balanced. The details are outlined in the facts above. Where the evidence conflicts with the written evidence of the Local Authority the Tribunal preferred the evidence of the Teacher because it is based upon first hand experience of the Unit and of the Child and the Tribunal was of the view that they were a highly competent witness.
52. In reaching the conclusion that the Child needs additional individual LSA support the Tribunal also took into account the fact that the agreed description of the Child's special educational needs demonstrates that the Child has significant needs across all areas of the Child's development and learning. The agreed Part 2 also reflects the fact that the Child has very limited attention and focus and that has difficulty in generalising the Child's learning from one situation to another and it records that the Child cannot follow an instruction without a lot of cues and adult support and that the Child's work and play is only managed if the Child has access to an adult to show the Child hand over hand what to do and this needs a lot of repetition. It describes the Child's behaviour as being erratic and describes the Child as being constantly active and as continually climbing and moving around the room. The Tribunal also noted that the agreed wording makes reference to the Child needing "adult support at all times" and to the fact that the Child "*cannot be left unattended.*" Further in the agreed wording in Part 3 of the Working Documents the need for LSA support features a great deal so as to ensure that significant pieces of work/programmes are delivered to the Child and the Child needs are appropriately supported. Looking at this as a whole, the Tribunal felt that the agreed description of the Child's needs and the description of the work that LSAs should carry out with the Child supported the position of the Parent in regard to LSA support rather than that of the Local Authority.
53. In regard to the provision of speech and language therapy support for the Child the Tribunal did not believe that it was appropriate or necessary to make provision for the Child to have direct 1:1 weekly sessions with a Speech and Language Therapist at this time. It did conclude, however, that it was necessary for a suitably qualified Speech and Language Therapist to carry out regular observations/assessments of the Child and discuss needs and suitable provision with school staff and with the Parent so that the Therapist is able to provide a suitable Speech and Language therapy programme tailored specifically for the Child's needs and so that the therapist can monitor the Child's progress and offer advice, support and modeling of good practice to the Unit and contribute effectively to the planning and review of the Child's provision. The Tribunal did not consider that it was appropriate in this case to allocate specific amounts of time to these tasks.

54. In reaching the decision not to order direct 1:1 weekly speech and language therapy the Tribunal was aware that this is provision that has been recommended by the Speech and Language Therapist instructed by the Parent. The Tribunal carefully considered the recommendations set out in the report of November 2012 and it took into account the considerable experience and expertise. However, based on all the evidence it heard the Tribunal was of the view that the Child's level of functioning at present and the Child's current levels of focus and attention and inability to generalise the Child's learning come together at present to favour input and support that can be embedded throughout the school day rather than time limited input that is delivered on a withdrawal basis.
55. The Tribunal considered that the report does not address the above matters. Indeed, the SALT does not fully explain how and why they arrived at the conclusion that the Child needs direct therapy at the present time, save to refer to unspecified studies that support the efficacy of direct intervention, neither do they explain what work the Therapist would do in direct sessions with the Child and how it would add to the embedded work that would be carried out through delivery of a tailored programme that they also recommend. Furthermore, the advice and recommendations concerning provision were prepared following a one off observation of the Child in school and following a discussion with the Parent and with school staff and it does not appear that follow up discussions took place with the Parent and with school staff to triangulate the conclusions and recommendations that were reached.
56. The Tribunal bore in mind the Parents point that the Child received direct therapy delivered at home when the Child was younger and this in their view had proved effective. The Tribunal did not doubt that at that time the provision was useful for the Child and Parent since it was delivered at home. In the view of the Tribunal the direct provision now being proposed is different in that it would be delivered in school on a withdrawal basis rather than in the context of the Child's learning environment and as such and for the reasons set out above the Tribunal did not consider that direct individual sessions would be appropriate at this point in time.
57. The Tribunal did not accept the argument of the Parent and Parent Representative that the direct 1:1 provision should be tried to see if it works. The Tribunal is required to determine the special educational provision that is necessary and appropriate to address the special educational needs of a child. For the reasons that it has already outlined above the Tribunal has concluded that in the Child's case at the present time direct weekly 1:1 speech and language therapist involvement is not appropriate and therefore the Tribunal did not consider that it was in a position to order the provision. This is not to say that such intervention may not be appropriate in future as the Child continues to progress.
58. The Tribunal considered the provision being proposed by the Local Authority and SALT to be inadequate to meet the Child's Speech and Language and communication needs. The Tribunal felt that the Child's Language and communication needs are severe and are such as to

require direct oversight and monitoring by a suitably qualified Speech and Language Therapist.

59. The Tribunal was of the view that the evidence that the Local Authority sought to rely upon in support of its position was weak and unconvincing. The last direct contact that the Speech and Language Therapy Department of the Health Board had with the Child took place in late 2011. The SALT has had no direct contact with the Child at all. It is accepted that the Child has severely delayed attention and listening skills, receptive and expressive language skills and social communication skills and this is recorded in the agreed Working Document.
60. In addition the evidence of the Teacher was that the other 5 children in the Child's class, all of whom have similar needs to the Child, receive input from the NHS Speech and Language Therapist assigned to support the School, including provision of a therapist designed and monitored programme. The evidence also indicates that two of the five recommendations from a letter of 9 February 2012 which form the basis of the programme that the Local Authority argues should be followed in school are not presently being applied by the Unit as they are not considered appropriate for the Child. Further, notwithstanding the fact that the Unit is specialist provision and the SALT's indication that the Unit has the expertise to oversee and monitor delivery of recommendations, the Teacher was very clear that they would welcome input from a Speech and Language Therapist in regard to the Child around the preparation of an effective programme for the Child, and in regard to input in monitoring progress and reviewing targets and in securing appropriate advice and oversight.
61. The Tribunal also felt that the new proposal that the Parent and staff from the Unit attend the Early Bird Plus Scheme provided by the Health Board Speech and Language Therapy Department had not been thought through and would be insufficient provision to address the Child's significant language and communication needs. It required the Unit to release staff to attend the Scheme when the clear evidence of the Unit was that it was over stretched and that it did not have sufficient staff to cope with the needs of the Child as things stood. In addition, the SALT appeared to suggest that the Scheme did not involve any direct therapist involvement with the Child so as to inform the advice and recommendations that would be made to the School and to the Parent. The Scheme also appears to be a short, time limited piece of work and it is clear that the Child's speech and language and communication difficulties will be long term.
62. Taking account of the above the Tribunal took the view that the Child's Statement should be amended to reflect the provision being sought by the Parent except in so far as this stipulates direct 1:1 weekly sessions with a Speech and Language Therapist and linked to this the overall number of hours of Speech and Language Therapist time that is stipulated since this is no longer accurate.

63. Having decided to remove the overall reference to hours in regard to the work of the Speech and Language Therapist the Tribunal also decided to remove the number of hours assigned to the specific tasks that a Therapist would be undertaking. The Tribunal was aware of the need for statements to specify provision so that it is clear regarding what must be delivered and by whom and that usually this provision should be quantified in terms of hours. However, in this case the Tribunal felt that once the specification of 35 hours of Speech and Language Therapist time was removed, because it was no longer accurate, the remaining figures assigned to specific tasks made little sense, particularly as a number of the figures are linked directly into the time allotted for direct therapy sessions with the Therapist. Moreover, since the time periods stipulated are based on recommendations it does not explain in the report how the time period set for each task is calculated the Tribunal felt that the allocation was somewhat arbitrary in nature. The Tribunal was concerned that the allocation of arbitrary periods of time to each specified task would potentially set unhelpful limits on the tasks that the Therapist is to undertake. Since the Tribunal felt that the time periods were unhelpful and potentially counterproductive the Tribunal decided in this case not to specify them. The Tribunal was satisfied that specification could best achieve in this case by clearly identifying and describing the tasks that the Therapist needs to undertake.
64. It follows on from the decision that the Child needs a Speech and Language therapy programme that should be delivered throughout the school day that the Tribunal was of the view that the summary of support at the end of Part 3 of the Child's Statement ought to record that support should be used to deliver the speech and language therapy programme as devised by a Speech and Language Therapist to the Child in line with the wording sought by the Parent in the Working Documents of February 2013 and March 2013.
65. The Tribunal noted that the Parent wishes to be addressed as Miss. rather than Mrs. and the agreement of the parties that the Child's Statement should be amended to reflect this. The Tribunal decided to make an order to this effect.
66. The Tribunal noted the agreement of the parties to remove the reference in Part 6 of the Child's Statement to advice and input from the Child Development Advisory Service and to the Child having access to a child minder. The Tribunal cannot make orders to reflect these agreed changes to Part 6 since it does not have the power to do so. However, the Tribunal was confident that the Local Authority will amend the Child's Statement accordingly.

Order

The appeal is upheld in respect of Part 2 of the Child's Statement and is upheld in part in relation to Part 3 of the Child's Statement.

- I. By agreement of the parties the Local Authority is to amend Part 2 of the Child's Statement in accordance with the agreed wording set out in the Working Documents of February 2013 and March 2013 with the exception of the sentence which states, "The Child is not yet eating in school."
- II. By order of the Tribunal the Local Authority is to amend Part 2 of the Child's Statement to remove the sentence, "The Child is not yet eating in school."
- III. By agreement of the parties the Local Authority is to amend Part 3 of the Child's Statement in accordance with the agreed wording set out in the Working Documents of February 2013 and March 2013.
- IV. By agreement of the parties in respect of the delivery of a social communication programme the Local Authority is to amend Part 3 of the Child's Statement to provide that the Teacher will prepare the programme.
- V. By agreement of the parties in respect of the agreed occupational therapy assessment the Local Authority is to amend Part 3 of the Child's Statement to indicate that the Child will be referred to the Occupational Therapy Service for assessment by a suitably qualified Occupational Therapist to determine the Child's therapy needs.
- VI. By order of the Tribunal the Local Authority is to amend Part 3 of the Child's Statement to make provision for the Child to have additional LSA support in line with the wording sought by the Parent in the Working Documents.
- VII. By order of the Tribunal the Local Authority is to amend Part 3 of the Child's Statement to make provision for the Child to have Speech and Language therapy support via delivery of a Speech and Language therapy programme prepared by a suitably qualified Speech and Language Therapist in line with the wording sought by the Parent in the Working Document.
- VIII. By order of the Tribunal the Local Authority is to amend Part 3 of the Child's Statement to provide for a suitable qualified Speech and Language Therapist to deliver advice and training to school staff and the Parent and for the Therapist to model good practice to school staff, support the annual review process, support planning and review of the Child's provision and help set appropriate targets and be involved in monitoring the Child's progress as provided for in the wording sought by the Parent in the Working Document but not including the hours attributed to each task.
- IX. By order of the Tribunal the Local Authority is to amend the summary of support at the end of Part 3 of the Child's Statement to provide for delivery of Speech and Language therapy programme in line with the wording sought by the Parent in the Working Document.
- X. By agreement of the parties the Local Authority is to amend the Child's Statement to give the Parent their preferred title of "Miss."

Dated March 2013