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## **Decision**

**Date of Birth:** 2006  
**Appeal of:** The Parents  
**Type of Appeal:** Contents of a Statement of SEN  
**Against Decision of:** The Local Authority  
**Date of Hearing:** 2011

### **Appeal**

The Parents appeal 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**

The Local Authority did not oppose the appeal against the contents of the Child's statement of special educational needs and did not submit a case statement. The Parents informed the Tribunal, however, that they wished to precede with the appeal in respect of the issue of the description of the Child's speech and language difficulties in Part 2 and the specificity of the speech and language therapy provision to be made for the Child in Part 3. Upon consideration of the papers, the Tribunal concluded that there needed to be a hearing to consider Parts 2 and 3 of the statement, but that it was not necessary for the parties to attend, because the appeal could be dealt with on the papers.

### **Facts**

1. The Child is 4 years old and has Down's syndrome. The Child currently attends the reception class at School A, a maintained mainstream school. It is proposed that the Child should attend the Reception Year fully from September 2011, a year behind the Child's age peers, having joined the current Reception class gradually from September 2010.
2. The Parents commissioned a private speech and language therapy assessment of the Child in the autumn term. In the report, dated November 2010, a specialist speech and language therapist (Down's syndrome) described the Child's communication skills and confirmed that the Child has a language delay associated with their learning disability, coupled with a specific speech and language impairment. The Child's receptive vocabulary is an area of relative strength and the

Child is an active communicator, using both verbal and non-verbal means of communication. The Child has significant difficulties using spoken language. The Child was identified as having phonological awareness difficulties, speech-motor difficulties and short term auditory memory difficulties, which meant that the Child continues to experience significant difficulty in acquiring spoken language, over and above any delay associated with the Child's learning difficulties.

3. The therapist advocated an individualised speech and language therapy programme for the Child, devised by a specialist speech and language therapist with knowledge and experience of the specific profile of communication skills and needs associated with Down's Syndrome to include targets to develop specific areas of the Child's speech and language and strategies to support the Child's developing communication across both education and home settings. Activities should be modelled by the therapist and delivered by a key member of staff in either a small group or one to one setting as recommended in the programme. The therapist should review the targets every half term. The therapist should also provide at least nine sessions of direct therapy every term with sessions lasting no less than 30 minutes with 15 minutes for administration and discussion with key educational staff.
4. In a speech and language therapy report prepared in May 2010, the NHS Highly Specialist Speech and Language therapist recommended goals but did not identify appropriate provision for the Child.
5. A further NHS therapy report dated November 2010 provided greater detail of the provision and formed the basis upon which the LA issued an amended statement setting out significantly more detail of the provision of speech and language therapy for the Child. It identified the provision of 31.5 hours of speech and language therapy input in the academic year, of which 6 hours were to consist of direct therapy to the Child.
6. The Parents sought to have the description of the Child's difficulties amended to include the detail identified in the therapist's report and the provision recommended by the independent therapist included in the Child's statement.

### **Tribunal's Conclusions with Reasons**

We considered the evidence presented both in the papers at the hearing together with the provisions of the Code of Practice for Wales 2001. We concluded that:

- A. The Parents sought to increase the detail in the description of the Parents communication difficulties in Part 2 of the statement. We consider that some additional information is necessary but that if the report is to be one of the appendices to the statement, then not all of the parents' proposed amendments are necessary. It will be sufficient to mention the complexity of the Child's speech production difficulties

and the Child' significant difficulties using spoken language, with the full detail being available in the report appended to the statement.

- B. In relation to Part 3, both therapists acknowledged the need for the Child to receive direct therapy, as well as other provision delivered by support staff on a daily basis. The disagreement on the evidence appears to be in relation to the quantification of provision rather than its delivery: The Speech and Language Therapist recommending at least nine sessions of direct therapy a term, and NHS Speech and Language Therapist only six sessions per academic year. Both recognised the need for half termly reviews.
- C. We considered the evidence and noted that the Speech and Language Therapist is specialised specifically in Down's syndrome. They had undertaken an assessment of the Child's difficulties and had identified in the report the work to be undertaken during the direct therapy sessions and the work to be delivered in the programme. Our only concern was that nine sessions per term did not appear to correlate with the number of weeks in terms in the area, and does not identify a period for consolidation of the skills learnt.
- D. The NHS Speech and Language Therapist's report did not carry the same level of detail or focus, and we concluded that given the Child's young age, the complexity of the difficulties, both in speech and language, we preferred the recommendations made by the other Speech and Language Therapist. We consider however that it would be appropriate to share the school terms into two parts, with a period of direct therapy to teach new skills, followed by a period of consolidation of those skills.
- E. The recommendations for provision in the amended statement quantified the provision but did not adequately explain the purpose of the sessions. Specification of time alone does not explain the provision that is necessary for meeting the child's needs.
- F. The other significant difference between the Speech and Language Therapist recommendations and the amended statement was that the Speech and Language Therapist recommended that the speech and language therapy programme should be "devised by the speech and language therapist" whereas the statement does not indicate how it should be devised and makes vague references to "skill sharing". Having taken into consideration the Child's significant speech and language difficulties, we have concluded that the speech and language therapy programme should be devised by the therapist in consultation with the school staff and the therapist will model how the programme is to be delivered.

## **Order**

Appeal allowed.

It is ordered that the Local Authority do amend the statement of the Child as follows:

- i) In Parts 2 and 3, by inserting the agreed amendments set out in the LA's proposed amended statement.
- ii) In Part 2, by adding under the heading "Speech, language and communication skills", the following opening sentence: "The Child has significant difficulties using spoken language and the Child's speech production difficulties are complex."
- iii) In Part 3, by amending the description of the provision of speech and language therapy as follows:

"Speech and language therapy.

The Child requires on-going input from a speech and language therapist in order to ensure that the Child achieves their potential expressive and receptive functional language levels. This will be:

- a) The Child will benefit from receiving school based speech and language therapy service so that advice and skill sharing can be given to the school to help with areas of difficulty.
- b) The Child should receive blocks of therapy of one to one direct therapy for six sessions every term, for not less than 30 minutes with a further 15 minutes for administration and liaison with key members of school staff, followed by a period of consolidation of the skills learnt.
- c) The Child shall also have a speech and language therapy programme devised by the therapist in consultation with the school staff, delivered on a daily basis for not less than 30 minutes per day by a teaching assistant who has had the delivery of the programme modelled by the therapist and under the guidance and monitoring of the therapist.
- d) The therapist shall review the Child's targets on a half termly basis and shall attend the Annual Review of the Child's statement.

**Dated February 2011**