



## DECISION

**Date of Birth:** 2008  
**Appeal By:** The Parent  
**Against Decision of:** The Local Authority (LA)  
**Concerning:** The Child  
**Hearing Date:** 2024

### **Persons Present:**

The Parent	<i>Parent</i>
The Parent	<i>Parent</i>
Representative	<i>Parent Representative, Counsel</i>
Educational Psychologist	<i>Parent Witness</i>
Representative	<i>LA Representative, Solicitor</i>
Head of Paediatric Speech & Language Therapy (SALT)	<i>LA Witness</i>
Deputy Headteacher/ALNCo, School A	<i>LA Witness</i>

1. The parent appeals the need and provision sections of the Individual Development Plan (IDP) made for the Child by the Local Authority (LA).

### **Mode of Hearing**

2. The case was listed for oral hearing by way of video. The hearing was fully effective in this manner and no party objected to this mode of hearing.

### **Attendance**

3. Both parents attended the appeal. The parents were represented. The parent witness was an Educational Psychologist.
4. The in house LA solicitor represented the Local Authority. The LA witnesses were the head of paediatric speech and language therapy (SALT) and Deputy Head and ALNCO at School A.

### **Preliminary Issues**

5. The panel were provided with a main bundle of 429 online pages. In addition, with the agreement of the LA, an addendum witness statement was provided by an independent Speech and Language Therapist as late evidence. The panel were also provided with version 7 of the Working Document.

6. At the start of the hearing, we raised with the parties that we had met for preliminary discussions regarding the case. Whilst of course no firm views were formed, we felt it right to highlight the issue that the Child is almost at the end of year 11 and all of the expert reports seem to focus on preparation for adulthood and we considered that that needed to be kept in everyone's minds when discussing what should be in the Child's IDP. We also asked for clarification as to whether the Child was still attending School B as we noted correspondence that stated that this had stopped due to parental preference. We asked for instructions to be taken on that, as we noted that provisions at external providers, such as School B, were still in the IDP and we wanted to ensure that the IDP that was issued post Tribunal was as up to date as possible. We also asked for an update on the Child on whether the transition to college of 1 day per week was indeed occurring. We found that it was, save that the last 2 sessions had to be cancelled.
7. The parties were given some time to discuss matters and the hearing commenced on the core issues at 11.15, clarification being given that the Child would be finishing their School B course as they were very close to achieving a certificate. We were particularly interested in having this clarified as we wished to ensure that the Child's views were kept at the forefront of everyone's minds as they had stated their views in the bundle, one of which being that they enjoyed School B.

### **Background to the appeal**

8. The Child has a rare genetic disorder called Rubinstein-Taybi Syndrome. This condition can affect a person physically, cognitively and behaviourally. The condition affects people differently and the Child has moderate to severe learning disabilities. The experts use different terminology, but it is agreed that the Child's cognitive skill levels are in the "extremely low" range.
9. The Child also has hypermobility in their thumbs and mild eczema but is otherwise now physically healthy.
10. The parties agree that the Child has severe deficits in their receptive and expressive language skills.
11. The parties agree on much of the Child's needs but, at point of issuing the appeal, disagreed on direct therapy provision levels and the need for weekly parent/ teaching assistant meetings. Pre-hearing the parties reached agreement on Occupational Therapy provision.

### **Issues**

12. The issues to be addressed are as follows: -
  - i) Does The Child exhibit challenging behaviour and how that should be expressed in 2A?
  - ii) What SALT provision the Child requires, in particular, how much, if any,

- direct SALT provision they require?
- iii) What parent/teacher liaison should be specified in section 2B.

### **Evidence and Reasons**

13. We have considered the IDP for the Child holistically as well as scrutinising the issues raised above. As a starting position we set out that the purpose of an IDP is to allow everyone working with a Child or young person with additional learning needs to be able to clearly and quickly ascertain what those needs are and what they need to ensure is in place for a Child to allow them to learn. The LA is to provide provision that is reasonably required to meet a young person's needs. Any and all additional learning provision must be set out in section 2B. We also reminded ourselves that a LA must provide only what is necessary to meet a Child's additional learning needs, they are not obliged to provide things that would go above this, even if they would benefit a Child or young person.
14. We also have kept in mind at all times of our decision making, that if a particular provision has 2 purposes, such a speech and language therapy which can both educate and train and meet a health need, the provision is deemed an educational provision and therefore must be placed in section 2B.
15. We finally note that we are only able to consider requested changes to sections 2A and 2B in this case as they are the sections under appeal. We do not make changes to any other section.
16. The parties agreed wording regarding the Child's behaviour for section 2A. We have considered the same in light of all other evidence available and find that section 2A is fit for purpose. We therefore make no other amendments to that section.
17. In relation to SALT, we scrutinised the expert reports, including the addendum report along having heard the oral evidence of LA witness 1, Head of paediatric speech & language therapy, including their answers to the questions asked to clarify their position. We note that from the emailed summary of the meeting between the 2 Speech and Language Therapists, that they agree that indirect therapy is key for the Child. This is agreed to require the upskilling of those around the Child to allow them to generalise their language and communication skills to wider environments. We concur with this view. The Child is to start college full time from September 2024 and is already attending a day per week as a transition. At this point in their life, we consider that the focus should be on helping the Child develop their functional communication in real life environments, such as college, when with friends, such as at lunchtimes or in other unstructured environments. We also agree with both experts that the Child should not be withdrawn from education to access a clinic setting but that they should be taught functional communication in functional settings.
18. The main area of dispute between the parties was in relation to direct therapy. In essence, the therapists were advocating for both indirect and direct therapy,

with a different weight given to each. We can see the merits and draw backs in both positions. We note that the Child is not in a specialist school, such as one that has a total communication approach and thus, highly skilled staff who are used to working, as part of their role, as unofficial SALT assistants, in providing indirect therapy. We therefore consider that the staff working with the Child will require direct training on both how to meet the Child's needs and how to deliver the indirect therapy prescribed by the Speech and Language Therapist. We find that the responsibility for that training must be that of the treating therapist. We accept of course that the therapist may find that there are resources that could assist, that the teaching assistant may be directed to, but we find that where direct training is required, this must be provided, as needed, by the therapist, in addition to the direct therapy session that the teaching assistant must attend. We find that the LA witness 1's approach of taking into account the Child's cognitive ability when planning their programme of therapy and the approach to be used, to be endorsed by the professional body of speech and language therapists in the UK. We note that the addendum witness statement has provided the American equivalent society's position. We find that it is appropriate that the LA rely on the expertise of the UK leading body in which approach to follow. However, we disagree with LA witness 1 regarding direct therapy to a point. We find that the Child has made meaningful progress with their direct therapy to date. We accept that there will be language concepts that may be too difficult for them to work on, however, it is agreed that the Child still requires work on their functional communication. We find that this is key for the Child and requires a direct therapy session of 1 hour, every month, to allow for targets to be adjusted post session and new concepts taught, that can then be reinforced by indirect therapy during the following month. We find that it is particularly important for the direct therapy to be monthly where the setting is not a specialist setting, as we find that there needs to be more hands-on involvement and supervision from a qualified therapist.

19. We have considered the evidence in relation to speech and language therapy provision outside of term time. Whilst we accept fully that this could enhance the Child's learning, we find that there is not persuasive evidence available to support that this is reasonably required provision. It is possible for the Child to practice functional language in a range of settings within term time. This can be in formal lessons, in breaks, over lunches, travelling to and from School B and college and during the day when they can access canteens. We find that this means that opportunities for real life situations are already available to them. Further, we accept the evidence of the parent that the Child never really has had much in terms of therapy in the school holidays. Despite this, it is accepted by everyone that the Child has achieved progress with their language and communication skills, in particular, in achieving longer utterances. We therefore find that what is proposed by the LA, with the changes made by the panel, is sufficient to meet the Child's additional learning needs.
20. We have considered in depth the issue of parent/ school liaison. We have no hesitation in finding that some meetings can amount to additional learning needs provision. We have also considered the case law raised by the parent's

representative in submissions. We also accept fully that the Child's parents wish to do everything they can to support their learning and that their desire to reinforce what the Child learns in school would enhance their progress and development. What we then had to consider is what the purpose of those meetings are and whether they are reasonably required provision.

21. We find that the parental witness, an educational psychologist, contradicted herself in oral evidence both in relation to what they said before in oral evidence and what they had written in their report. We find that the thrust of their report was in having these meetings to share ideas with the parents. In oral evidence, when challenged on why this was educational provision, the parental witness then said it was as the Child needed learning in an "extended day" meaning. Clarification was sought on this as neither party has specified what learning, bar direct speech and language therapy, should continue outside of the school day/ term and certainly, neither party has asked for changes in relation to section B on this issue. We heard Ms the parent representative on this point and note that they said that if parents are willing to provide some educational provision it was appropriate to let them. However, in this case there is no clarity on what that would be. The evidence from the school, which was not contradicted, is that the Child is making progress so it would appear that additional learning opportunities are not reasonably required. That is not to say that the Tribunal could not see the benefit in additional over-learning opportunities. That is not though the legal test we have to consider.
22. The parental witness, (EP) later said that the purpose of the meetings was for the parents, who are experts in their Child and the teaching assistant to meet weekly so that strategies could be tweaked as appropriate. We find that this would not be appropriate provision and indeed, could be detrimental to the Child's progress. A teaching assistant is not qualified to design and lead curriculum planning. Further, the parent is not a qualified therapist. It is important that the relevantly qualified professionals take the lead in designing the package of strategies for working with the Child and only they, with input obviously from all involved with the Child, including the parents, make changes to approaches to be used.
23. We therefore find that the intention of the proposed meetings by parental witness (EP) is as they set out in writing and in essence, is an information sharing exercise between the school and the parent. We find that communication is standard good practice and part of quality first teaching and thus is not additional learning provision. It does not educate or train the Child, although we note the intention for them to be there. We of course accept that should matters arise, the school must schedule a meeting to inform the parents of the same.
24. We do consider that as the Child has a rare condition and a complex and rather unique presentation, termly person-centred reviews would not provide enough opportunity for interventions to be modified to assist them in their learning. We consider that half termly reviews, where, of course, the parents would be invited, would be far better suited to meet the Child's needs and

allows all those responsible for the Child's education to be involved in decision making. We also consider that as the Child is in year 11 and is working on developing their independence in preparation for adulthood, they should be invited to at least part of every such meeting to give their views on what was going well and what extra support they may feel they need. We note that the Child is able to give their views and thus they should be heard when planning their provision.

## **Order**

It is ordered that:

The Local Authority do amend the Individual Development Plan for the Child by:-

- 1) Replacing section 2A with what is in the attached working document;
- 2) Replacing section 2B with what is in the attached working document.

**Dated February 2024**