



First-tier Tribunal

(Health Education and Social Care Chamber)

Appeal Number: 10-00640

THE SPECIAL EDUCATIONAL NEEDS AND DISABILITY JURISDICTION

**Sitting at Pocock Street London
On 13th September 2010
Regarding LW
(born 23rd June 2001)**

Before

JUDGE L. SAFFER

PC

RB

Between

HC AND DW

And

HARINGEY COUNCIL

DETERMINATION AND REASONS

Representation:
Ms C and Mr W: Mr Silas
Haringey Council: Ms Miller

Proceedings

1. Ms C and Mr W appeal pursuant to section 326 of the Education Act 1996 against Part 2, 3, and 4 of the Statement of Special Educational Needs issued on the 13th January 2010 by Haringey Council in relation to their son L who is now 9 years and 3 months old.

2. We heard evidence from Ms C and Mr W, Ms RB, Educational Psychologist, Ms JM, Principal at School, Ms JH, Speech and Language Therapist, Ms SJ, SENCO at School, and Ms YW, Educational Psychologist. We heard submissions from Mr Silas and Ms Miller.

3. We have considered all the oral evidence and the documents in the bundle which ran to 520 pages as identified in the index, and the submissions, some of which were oral, and some in writing. We also considered the late evidence being a letter from Ms C to the Head Teacher at School, an occupational therapy discharge report, and a speech and language report from AG, as they were all recent and relevant. We were also provided with funding information and timetables by Ms Miller who produced the documents at our request during the hearing. We are grateful to all who contributed. We will not summarise all the evidence, some of which is historic, but will summarise that which has been most relevant to the issues for determination.

4. We point out here that due to the very helpful written summaries of the evidence and arguments prepared in advance by Ms Miller and Mr Silas, each of whom considered the points raised by the other party, much less evidence was needed to be heard than might otherwise have been the case and a significant amount of time was saved. Further time was saved by pre-hearing discussions that led to a number of previously contentious issues in Parts 2 and 3 being resolved.

5. At the commencement of the proceedings, the procedure to be adopted was explained to all attendees, and all attendees were given the opportunity to add or comment on anything they felt had not been fully addressed either in the papers or arising out of the hearing. We have borne in mind throughout the relevant sections of the Education Act 1996 and the Special Educational Needs and Disability Act 2001 and the 2001 Special Educational Needs Code of Practice.

Issues

6. The disputes in relation to Part 2, in summary, concerned

- a. the level of L's achievement compared with those of his peers
- b. phraseology as to the extent of L's difficulties

7. The disputes in relation to Part 3, in summary, concerned

- a. the extent to which L needs specialist teaching at school
- b. whether L needed a direct speech and language therapy programme devised and directed by a qualified speech and language therapist, or whether it was sufficient to have a daily language and communication programme devised by the speech and language therapist and

implemented by the school staff in collaboration with parents and the professionals

- c. whether L needed individual direct occupational therapy sessions of 45 minutes 6 times a term provided by a qualified occupational therapist
- d. whether the provision of 20 hours a week support from a teaching assistant and 3 hours a week support from a specialist teacher was sufficient to meet L's special educational needs
- e. and whether L should be taught in a small class or small groups

8. In relation to Part 4 the dispute was whether the parental preference of School, an independent school, should displace Haringey Councils' named school which is School, a maintained mainstream school.

9. The present appeal is in relation to the disputed issues. We will break down the evidence into sections for ease of reference.

L

10. L lives with his parents, Ms C and Mr W, and his 6 year old sister, F. L has been described by professionals who have assessed him as being kind, cooperative, friendly, witty, imaginative and creative.

11. He attends School. He has special educational needs. He has a diagnosis of severe developmental dyslexia. Though he is of above average intelligence, he has difficulties in acquiring numeracy and literacy skills. He has limited language skills and limited attention skills. He has delayed fine motor skills. His learning difficulties impact on his educational attainments and his self-esteem and confidence.

Ms C and Mr W

12. Ms C and Mr W are concerned that because of his complex needs L is, at best, not progressing, and at worst regressing as against his peers, and is becoming increasingly frustrated given his level of intelligence. He understands that he has difficulties but appears to be able to do nothing about it. The difficulties are manifesting themselves in him becoming angry particularly at home. Ms C told us that L has been aggressive to F, herself and Mr W. Progress is so slow that L cannot see it. Ms C told us that L cannot even read his own name. Having a teaching assistant has made things at school bearable. She thinks his frustration and aggressive behaviour will spill out at school. She cannot send him to the shops as he cannot read what it is he has to purchase such as butter. He cannot handle money or tell the time and has no concept of time.

13. We note from the common assessment framework referral and assessment form that Ms C recorded that L has said he is rubbish and she told us that recently L said he hates his life. He feels humiliated by his lack of progress and progress of others such as F. Ms C told us that L's emotional state has deteriorated rapidly recently.

14. Mr W told us that L's reading ability has got worse. He lashes out and does not attempt to read. He does not see the alleged improvement being translated into life.

Despite the support he has been getting, things have got worse and worse and L is very difficult to discipline at home. He also told us that L said he does not want to be withdrawn from class as that means he is not learning in class. However, very recently, L has said he does not mind being withdrawn as the work he then has to do is easier and he can do it unlike the work in class.

15. We note from their written statements in March 2010 that Ms C and Mr W felt School was doing its best but that L's needs were more than they can provide.

16. We note the e-mail sent by Ms C in January 2010 to Ms J which records L's disengagement with school work and avoidance techniques at school and his behavioural difficulties at home. We also note meeting notes from Ms J in very similar terms. In regards to this we were told by Ms J that the behaviour she was referring to was avoidance behaviour and the situation has improved since she wrote the note in that he no longer moves around so much.

17. We note the letter written by Ms C to the Head Teacher of School in August 2010 concerning the withdrawal of the teaching assistant support in the final week of the summer term and also note the lack of a reply.

18. Ms C told us that extra help offered by Haringey Council would not be sufficient as it is the quality of the help he receives and not the quantity that matters most.

Haringey Council

19. Haringey Council say that School can provide for L's needs. They do not accept that sending him to the parents' preferred school "is compatible with ... the avoidance of unreasonable public expenditure". He is making progress within the mainstream school with support, there is merit in him being with mainstream peers given his above-average intelligence, and there is no recommendation for direct speech and language and occupational therapy to be woven into his school day. We note from the case statement made by Ms M in May 2010 that at that stage Haringey Council believed that 3 hours of specialist teaching support per week and 10 hours of teaching assistant support per week was sufficient to provide for L's needs.

20. By September 2010 Haringey Council said they had increased the teaching assistant support to 15 hours per week and during the hearing Ms M said they were going to increase it to 20 hours per week. We were told by Ms M that this increase followed discussions with Ms J. Ms J told us that the extra hours were required as L's progress was slow. We point out here that this latter increase in teaching assistant support was news to the parents and the tribunal.

21. When we asked Ms M at the hearing to provide timetables of precisely what L was currently getting and what it was envisaged he would get when the teaching assistant hours were increased, the timetable she produced for his current support in fact worked out at a total of 7 ½ hours of teaching assistant support part of which was in small groups within the class and part of it was 1:1 withdrawal. It was also clear that the 3 hours specialist teacher support specified in Part 4, in fact amounted to 3 hours of planning and preparation across the week being 4 sessions of 45 minutes and was not direct teaching. L also had 1 hour of psychotherapy and 1

session of 30 minutes with Ms J. The new plan of 20 hours teaching assistant support showed that he would be having this support for the entire week with the exception of play time, lunchtime, assembly, band time, golden time and PE.

22. Ms M submitted that the cost difference of the two placements submitted by the parties is substantial as the fees at School are £26,250 per year together with transportation costs of £3,660. The costs at School, given the increase of teaching assistant support to 20 hours and the pupil led funding which had previously been excluded, were £16,739. We were told that the speech and language therapy and occupational therapy would not cost anything to Haringey Council as it comes without charge from the local Health Authority. We were told by Mr W that the transport company used by School had told him that the cost was £2,850 per year. The annual cost difference was therefore about £13,000 or £14,000 depending on which transportation cost was relied on and assuming that there was no cost for speech and language therapy or occupational therapy.

23. Mr Silas submitted the cost of a teaching assistant was not a simple hourly rate as suggested by Haringey Council, because, somebody would have to be employed specifically given the number of hours required, and the fact that the hours that Haringey Council say they are not paying for were during the day between when the teaching assistant was either preparing for lessons or working directly with L. Accordingly it was a full-time job. In addition to the salary there will also be the cost of employing the person. There was also an unquantified cost of therapy which also reduced the cost difference.

24. We note that Haringey Council relied on statements L had made essentially saying that he was happy where he was. We were told by Ms J that L has a lovely class and supportive and close friends. He is socially integrated in class and at school.

Speech and language therapy

25. Ms AH reported in April 2009 that L has particular difficulty with expressive syntax and requires support to formulate grammatical sentences. He finds retrieving phonological cones at speed particularly difficult. He needs to develop skills in auditory discrimination, sequencing, conceptual knowledge and understanding, receptive and expressive vocabulary, and compound and complex sentence formulation. He would benefit from speech and language therapy.

26. Ms H reported in March 2010 that L showed persisting weaknesses in his expressive language skills, some mild and specific difficulties in processing auditory information, some difficulties in retrieval, and some persisting and moderate to severe weaknesses in his ability to organise his ideas and formulate complex sentence structures. He needed 2 terms of direct weekly speech and language therapy intervention either in a small group or an individual basis in a school that caters specifically to children with specific learning difficulties where the curriculum is differentiated and he will have access to occupational therapy and speech and language therapy that is integrated into the curriculum.

27. The report from Ms AG from July 2010 notes that L has significant difficulty using connectives to combine clauses and had difficulty explaining the relationship between how words are associated which in everyday life could be reflected in difficulty explaining abstract ideas. He has difficulties with higher level language particularly expressive language and may have difficulty remembering instructions. She recommended alternating half termly blocks of weekly sessions or fortnightly sessions throughout the term of speech and language therapy.

Educational Psychology

28. In December 2008, Ms VM reported that Ms C and Mr W were concerned that L had made little progress over the course of the last 2 years. His teachers described him as below class standard in the basic educational subjects and that he was becoming increasingly anxious and lacking in confidence about his poor progress. He appeared to be making better progress lately as he had been receiving support in most literacy and numeracy lessons. Ms M's assessment of L was that he processes verbal and visual information equally well and that his overall or full-scale IQ lies in the top 10% of children in general learning ability. Despite this, his general reading was assessed as being 2 years below his chronological age, and his ability in maths was 1 year behind his chronological age but 2 years below his IQ expectation. He has a strong visual memory but his phonological skills are markedly underdeveloped for an able child of his age (he was then 7 ½). Her assessment was that L is a bright and articulate little boy with an unusually severe developmental dyslexia as a result of which he is failing to fulfil his considerable academic potential. He is making very slow progress despite having individualised teacher assistant support. She said that many children, even with severe dyslexia, providing they are given the right support, have the verbal skills to develop compensatory strategies, and do overcome the worst of their reading problems by the early stages of secondary school.

29. Ms CR reported in July 2009 that L is still in the early stages of learning to read. He has grasped the concept of blending and building words but confuses many letters and therefore has a high error rate. He also usually loses his place when reading. Writing is a difficult and laborious process for him and he would benefit from the support of a scribe or working with a partner.

30. Ms W conducted further tests in October 2009 and we note that whilst there was a marginal improvement on the percentile chart for his spelling he fell further behind chronologically on that test. In other reading tests his progress, if any, was minimal. She helpfully records the national curriculum levels which show that in reading and writing and maths from summer 2008 to summer 2009 he made no progress whatsoever according to those tests being at level 2C. Since July 2009 he has been accessing the Read Write Inc programme and his rate of progress has increased. Indeed we note from the written submissions from Ms M that there was no progress in his reading and writing level even by spring 2010 and his maths level had gone from 2C to 2B. In evidence Ms W told that L makes a small amount of progress and then plateaus.

31. Ms B reported in February 2010 that L uses mixed up words very easily, and he often displays sequencing difficulties in his written work. She considered the various reports prepared by others and noted that his rate of progress was less than his

peers and given his intellect he was significantly underachieving. He has low self esteem. L told her that he finds reading and writing “difficult as his abilities can't deal with them”, he does not think he is going to improve, and he is really struggling. We note the various suggestions she makes which to a large extent Haringey Council agreed to include in an amended statement and we will not therefore record them here. In her addendum in June she noted that L is currently 3 P levels below average in writing and maths and 4 P levels below average in reading. He is not making acceptable progress despite the level of support in place. She told us that it is unusual that L is receiving psychotherapy.

Occupational therapy

32. Ms CC assessed L in April 2009. Ms C and Mr W told her that that recently L's confidence and self-esteem had been very low and he frequently became frustrated with the difficulty of his school work and gave up quickly if he found it challenging. Ms C's assessment concluded L has real strengths with visual perception, visual motor integration skills, gross motor skills and fine motor skills, ocular-motor control, and was co-operative, motivated and had a hard-working attitude. He has significant difficulties with his handwriting including letter formation, spacing, fluency and pencil grip. He also had significant difficulties with development of bilateral integration skills, he had weak shoulder joint stability, and he had a significant difficulty with his body awareness. He will benefit from an individualised occupational therapy program to address these problems.

33. Ms LF reported in March 2010 that L has difficulties with sensory processing, postural control, bilateral coordination and handwriting and he requires 6 sessions a term of individual occupational therapy for 45 minutes at school with his teaching assistant present to carry through strategies, a full occupational therapy program, and all staff to be trained by the occupational therapist to assist him. She recommended he attends a special school where staff are trained in working with children with specific learning difficulties with an integrated occupational therapy program.

34. Ms BM reported in April 2010 that L was receiving 15 hours a week learning support. She noted the difficulties he was having with his handwriting but stated that no further occupational therapy was required at this time and accordingly he will be discharged from the service. We note that she has incorrectly spelt his first name and we trust that Haringey Council will ensure that his name is correctly spelt in the records of the occupational therapy service.

35. We note the discharge report from July 2010 says that the aims of therapy have been met and the school have confirmed the implementation of the recommendations provided by the Children's Occupational Therapy Service.

Medical advice

36. Dr B, specialist registrar in paediatrics, reported, in September 2009, that L would benefit from a small classroom size with teachers who have experience in dealing with children with severe developmental dyslexia. Without the necessary

help L would find it difficult to access the national curriculum and achieve his full potential.

37. Mr GM, primary mental health worker, wrote, in September 2009, that L displays a good insight into his diagnosis and is able to rationalise difficult situations through the use of reflection. It is a concern that if his educational requirements are not met by the education system, that over a period of time, he will become extremely frustrated and be unable to achieve the educational standard equal to that of his cognitive functioning. This will have a huge impact on him emotionally, behaviourally, psychologically and with regard to his future life chances and choices. In May 2010 Mr M noted that no further support was required from him as the support required is education based.

School

38. Ms J reported in October 2009 that L has significant difficulties physically as he learns. He can sit for about 20 minutes. In 1:1 teaching sessions he learns much more productively if he is allowed to stand and walk and fidget. He has a preference for kinaesthetic learning styles and retains learning much better if it is presented to him in a multisensory model. He contributed verbally to class discussions and benefits from paired work where his partner acts as a scribe. He experiences very high levels of fatigue and anxiety at school and home. He deployed very elaborate distraction techniques. His self-esteem is very low. He is wonderfully creative and enjoys all aspects of history. He has fantastic ability with spatial activities. He has significant and pronounced difficulty with literacy despite being in various class small groups and individual interventions. He is still behind his peers significantly in numeracy. He requires specialist 1:1 teaching. He has many emotional barriers to learning and requires really sensitive teaching. He has 2 hours of 1:1 teaching and is in a small group twice a week with a special needs teacher for maths. His classroom environment has been modified. He finds it difficult to remember things and finds difficulty with the days of the week and months of the year.

39. We note here that Ms B records how welcome the school made her, how impressed she was with their commitment to L and how creative she found Ms J to be in breaking down L's emotional barriers. We further note that Ms C has "nothing but praise" for Ms J.

40. Ms B also noted that she was told that L was the only pupil in school with severe dyslexia. Ms J confirmed that although there were other pupils who demonstrated similar symptoms they had not been diagnosed. Five children at the school have statements 2 of whom have Down syndrome, 1 has Asperger's syndrome, and 1 has ASD/ADHD. L is the fifth child and he currently receives 10 hours learning support assistance from someone who has no qualifications to work with a dyslexic child and 3 hours of specialist teaching. It became clear at the hearing that, since May 2010, 1 of those hours was now used, with the agreement with Ms C and Mr W, for psychotherapy, and that time dedicated to direct specialist teaching is very limited. L is also part of the small group of 5 from his class who have numeracy work twice a week with a support teacher who does not have specialist qualifications. Ms B notes the limited timetable availability of Ms J who works 3 mornings and 1 afternoon a week at the school, and the limited training staff

who work with L have in dyslexia. L is grouped in class with those who are generally less able. The class teacher notes that there is a difficult balance to strike between him being withdrawn and included. The only 2 children in his class who are attaining at a similar level are a girl with Down Syndrome and a boy who has English as a second language and significant learning difficulties.

41. We note the OFSTED report of 2008 indicates that children with learning difficulties make good progress at the school.

42. The school action plus record forms and school reports note the increasing awareness of L's problems and the determined efforts by the school to address them.

43. His school report for 2010 note that his reading has improved recently but his output is still very slow and sometimes frustrating for him and it takes a while to grasp a new concept in maths. He achieved below the level expected for his age in maths but is showing progress. His subject attainment is noted to be way above average for technology and art, above average for science ICT history music and PE, and average for geography RE and Spanish.

44. We were told that the teaching assistant the school now employ to support L has some experience, has no specific dyslexia training, is not a higher level teaching assistant, and has been booked on a dyslexia course. Ms J has no specific qualification in dyslexia but she has taught another child with severe dyslexia. L has had 10 sessions of psychotherapy and that is bought in. Haringey Council does not currently employ a specialist dyslexia teacher or have an advisory support service. The additional time L will have with the teaching assistants will be in the afternoon and increase his ability to access the curriculum.

45. We were told that L is taught in class in small groups for every numeracy lesson. There is 1 child who has dyslexic type features but no diagnosis. There are 2 or 3 children who are at the same level of ability. For literacy he is paired with a child who has a similar attainment level but it is not due to dyslexia.

School

46. Haringey Council accepts that School, which specialises in teaching pupils with dyslexia, is able to meet L's needs and therefore we will not summarise the information in the Independent Inspectorate Inspection report or the schools prospectus. We note, however, that we were told by Ms M that this had not been necessary for other pupils who, on admittance to School, had presented very similarly to L as the school's holistic approach had obviated the need for psychotherapeutic intervention.

Determination of issues

47. We accept that everyone has told us the truth in relation to L as they see it, and all the opinion's have been given with L's best interest at heart. We are particularly grateful to Ms J.

48. L is clearly a delightful boy who has above average intelligence but severe developmental dyslexia. He is aware of his difficulties and has become frustrated. This has impacted on his home life and his school life, a measure of which is indicated by the need for psychotherapeutic intervention.

49. In relation to the specific disagreements as the phraseology in part 2, we will deal with them in the order as set out in the draft working document. The penultimate sentence of the first paragraph in our judgement should read “His level of achievement is very low” as it accurately describes for the reader the practical situation.

50. In our judgement, for the same reason, the third paragraph of Part 2 should say “L shows persistent and specific weaknesses in his higher level language skills. These affect aspects of the curriculum in verbal reasoning and create language tasks, as well as his use of language in social interaction.”

51. In relation to the sixth paragraph of Part 2, we do not accept that it should say “He appears to have regressed in Reading, achieving 1b in the Spring term of 2010” as that was in just one subset of tests.

52. In relation to the eighth paragraph of Part 2, in our judgement it should say “It was not an easy task for L to independently access the written work in year 4 and he appears to be increasingly dependent not only on adults around him but also on his peers without whom he would not be able to progress in lessons where he is unsupported” as he is no longer in year 4.

53. We accept all the insertions requested by Ms C and Mr W in the ninth paragraph of Part 2 should be included in the statement as we accept the evidence of Ms B that these accurately reflect the situation.

54. We accept that the wording requested by Ms C and Mr W in paragraph 11 for the same reason with the exception that we insert the word “sometimes” in the second sentence so that it begins “He sometimes finds the transition...” as we accept that the evidence of Ms B and of Ms J on this point.

55. In relation to Part 3 we do not accept that it should begin “L needs to” as the purpose of that part of the Statement of Special Educational Needs, as set out in paragraph 8.29 of the Special Educational Needs Code of Practice, is to spell out for professionals why and what they need to provide for a child and is not designed to tell a child what they have to do. We also note the agreement that 2 key objectives were omitted in error.

56. We accordingly direct that Part 3 begins “The objective of these provisions for L is for him to be able to

- a. develop his literacy and reading skills
- b. learn ways to overcome his dyslexia”

57. As a result of this each of the matters currently marked a-g under the heading “Objectives” will be re-designated as c-i.

58. In relation to the heading “Educational provision to meet the needs and objectives” we do not agree that it should say in the first paragraph either “throughout the school day” or “during the school day” as no one is suggesting that he requires educational provision outside the school day, the phrase is otiose, and the description of “throughout” or “during” is designed to drive us to determine the type of school he needs rather than the type of educational support he needs. In our judgement the Statement at this point should say “L needs to be taught in subjects involving literacy and numeracy by staff who are experienced or qualified to teach children with dyslexia.” We say this because his primary special educational need is his dyslexia and because the evidence is that he has made very little progress in literacy and numeracy lessons in a setting in which these key subjects have not been taught by teachers experienced or qualified in dyslexia. Put simply, we are satisfied from all the evidence that more of the same will not meet his special educational needs.

59. We do not accept that paragraph 2 of this section of Part 3 should say that “L needs a school that caters *specifically* for children with specific learning difficulties...” as the insertion of the word “specifically” limits the option of a mainstream education and subsequent inclusion and is designed to be determinative of Part 4. Accordingly we delete the word “specifically” from that paragraph.

60. We do not accept that paragraph 3 of this section of Part 3 should say that “L should be taught in small classes” but instead should say that “L should be taught in small groups” as once again we conclude that the use of the phrase “small class” is aimed at the description of a type of school and not at the educational need to be provided for.

61. In relation to speech and language therapy at paragraph 6 sub paragraph 2 of this section of Part 3, we do not accept that the Statement should say “with availability of the speech and language therapist within the classroom” as that implies that the individual intervention for L and support for the staff who augment that individual intervention would be insufficient. In our judgement its inclusion is designed not to aid L but to dictate the type of school he should attend, and is “gold standard” provision. We agree with Haringey Council that the paragraph e) they relied on which was objected to by Ms C and Mr W should be included in this Part namely “a daily language and communication programme...” as that ensures that the work is augmented on a daily basis.

62. In relation to the occupational therapy at paragraph 9 sub paragraph 1 of this section of Part 3, we do not accept that this bullet point should be inserted as the need can be appropriately met by the second and third bullet points of this section. We consider that the bullet point requested by Ms C and Mr W is “gold standard” provision and once again sought to dictate the type of school he should attend.

63. In relation to psychotherapy we do not accept this will be required if L has the appropriate structure of educational support around him.

64. We do not accept that the package of support proposed by Haringey Council adequately provides for L’s identified needs as he requires quality, not just quantity.

L is not being “included” by having an adult sat next to him all the time and he is not working with peers. He currently needs a professional framework around him and not just qualified professionals peering in from the outside to help him come to terms with his difficulties, and peers against whom he feels he can properly be assessed to help him understand his level of progress. In our judgement, L needs specialist teaching for a significant part of his school day and we were surprised that there was no report from a specialist teacher of dyslexia given that this is his key difficulty. Without it, quantification of this provision is difficult. We noted that there was no expert report determining the quantification of specialist teaching and that it was Haringey Council's SEN panel who decided 3 hours. No rationale for that decision was given to us. Further, Haringey Council accepted that L needed to be taught in small groups with peers with similar difficulties. School simply does not have peers fitting that description. The nearest they can get is children attaining at similar levels due to cognitive impairments. In our judgement withdrawing L into a small group alongside such pupils is likely to be counterproductive to his self esteem and the esteem in which his peers hold him. The progress he has made in the last 2 years has been negligible, and the differential with his peers has widened even in the structured primary school setting with significant support. This is despite the best efforts of Ms J who we accept has tried her best within the limitations of her time and resources as against the depth of his difficulties.

65. We have not accepted all Ms C and Mr W's experts proposals as, in our judgement, many of them are “gold standard” suggestions designed to direct the type of school L should attend.

66. For the reasons we have given, we do not accept that School can adequately provide for L's special educational needs. Accordingly we are not required to consider funding issues.

Order

67. We allow the appeal in part in relation to Part 2, 3, 4 and direct that Haringey Council amend the Statement of Educational Needs in accordance with the above which for ease of reference we have included in full in the Annex.

68. We allow the appeal in relation to Part 4 and direct that Haringey Council name School, an independent school, in Part 4.

Dated 20 September 2010



ANNEX

PART 2: SPECIAL EDUCATIONAL NEEDS

L is a bright, articulate and friendly child who demonstrates excellent skills in reasoning and problem solving. He has specific difficulty in acquiring literacy and numeracy skills and has been diagnosed as having severe developmental dyslexia. He also has limited language skills and limited attention skills, as well as delayed fine motor skills. Difficulties impact on his attainment and his self esteem and confidence. L's general level of intellectual functioning is in the high average range. His level of

achievement is very low. Because of his slow rate of progress, the gap between L and his peers is gradually increasing.

Communication: L has an extensive and mature vocabulary and contributes well in class discussions. However, although L comes over as using language quite competently, he uses a lot of fillers; e.g. the word “things”, which will creep into sentences when he cannot find the word that he needs. He sometimes mixes up words very easily. He finds retrieving phonological codes at speed particularly difficult and requires support to formulate grammatically correct sentences. L can follow a range of instructions, based on differing lengths and complexity, when presented with visual stimulus. He does not yet understand sequential words and has some difficulty with sequential vocabulary, as well as having some difficulty in remembering the order of things, such as the days of the week. L has particular difficulties with Working Memory.

L shows persisting and specific weaknesses in his language skills and particularly in his expressive language. These will affect aspects of the curriculum in verbal reasoning and creative language tasks, as well as his use of language in social interaction.

L's receptive language skills are within the average range for his chronological age, although he does show some mild and specific difficulties in processing auditory information, which are likely to be exacerbated within a larger classroom situation.

Although L shows a well developed expressive vocabulary, he does show some difficulties in retrieval, which may affect his use of language in conveying information precisely. He shows some persisting and moderate to severe weaknesses in his ability to organise his ideas and formulate complex sentence structures, as well as in using language to reason and explain. L is more fluent in his expressive language when talking about areas of particular interest.

Approaches to learning: L is beginning to make progress in the development of his reading and spelling skills, using phonic knowledge to read and spell unfamiliar words, although he is still in the early stages of learning to read. He can now recognise some words, is using sight vocabulary, and also sounds out words using phonic attack skills. He is slow and dysfluent. He shows little interest in writing and has difficulty acquiring basic phoneme/grapheme correspondence. At a chronological age of 8 years 3 months L achieved a reading age of 6 years and a spelling age of 6 years 4 months. L can read and write numbers up to twenty and knows addition facts to ten. He can count on and back in tens to one hundred, as well as understanding less than and more than concepts. In the summer term of 2008 L was working at National Curriculum level 2c in English and maths. The only area of progress over the years has been Maths. L does not enjoy writing and struggles over spelling.

Given L's cognitive level, one would expect him to be achieving at least in line with his chronological age. However, even with the Read Write Inc programme delivered on a 1:1, L has made very little progress and it has not been sufficient to bridge the gap which is growing wider. At 8 years 3 months, he was under-achieving by 2 years 3 months and as at February 2010 this gap had grown by 4 months. The overall picture is of a boy attaining levels at about 6 years.

It was not an easy task for L to independently access the written work in Year 4 and he appears to be increasingly dependent not only the adults around him but also on his peers without whom he would not be able to progress in lessons where he is unsupported.

L can become easily de-motivated and off-task in both 1:1 and whole-class learning situations. He is afraid of making mistakes and, as a result, will be reluctant to make attempts even in a 1:1. L requires constant adult support to re-focus his attention and when this is not available, he will rely on his peers. He uses avoidance strategies to not engage with work and will attempt to distract others. He requires adult support to remember timetables and school routines. L has, over the years, developed quite a lot of barriers to learning which are now quite entrenched.

Personal, social and emotional: L has established positive relationships with peers and adults in school. He is aware of his difficulties with learning and is becoming embarrassed about his inability to read. He feels different from his friends and as a result has low self-esteem. L says that he feels he has made progress in the development of his reading skills. L's parents report that he is often tired at the end of the school day especially towards the end of half terms, and that it can be difficult to get him to do his homework.

L is despondent about his ability to improve things. He sometimes finds the transitions between his withdrawal sessions and returning to the class difficult. L uses up an enormous amount of energy in trying to make sense of things and so all reading becomes very stressful for him.

Without the correct support, L is unable to achieve his potential as an intelligent young man. This, along with coming to terms with his diagnosis, causes him a high level of emotional difficulties which can present as frustration, anxiety and angry outbursts at home. His high anxiety levels are heavily impacting on his learning.

Physical, sensory and medical: L has age appropriate gross motor skills. He has not yet developed a fluent style of handwriting, L's handwriting is slow and laborious, demonstrating limited letter formation, letter alignment and slow speed of writing. His hand writing is compromised by his weak shoulder stability, bilateral integration and body awareness. L is independent in his self care needs, although he benefits from reminders. L has a preference for kinaesthetic learning styles and retains learning much better if it is presented to him in a multi-sensory model. L's teachers report that he can be fidgety and at home will sometimes even throw objects..

L demonstrates some modulation difficulties. Within a school environment, these difficulties negatively impact his ability to attend to tasks, regulate his activity level for appropriate participation, and modulate his emotional and behavioural responses to sensory input.

L has some difficulties with bilateral co-ordination and sequencing. Difficulties with motor planning also contribute to L's difficulty completing academic tasks in an organised and efficient manner.

L has difficulty with processing auditory and multisensory information. He can also become anxious or frustrated during challenging tasks, which directly impacts his willingness and ability to participate in activities. He is able to more successfully participate in activities when provided a quiet, distraction free supportive environment with redirection, multi-sensory cues, demonstration, positive reinforcements and repetition.

PART 3: SPECIAL EDUCATIONAL PROVISION

I Objectives

The objective of these provisions for L is for him to be able to

- a) participate fully in all areas of the curriculum, including the National Curriculum;
- b) develop his literacy and reading skills;
- c) learn ways to overcome the effects of his dyslexia;
- d) develop his expressive and receptive language skills;
- e) develop his mathematical skills;
- f) develop use of Information and Communication Technology (ICT) skills across the curriculum including developing his touch typing skills;
- g) acquire the necessary skills to work independently;
- h) enhance his self esteem and confidence in his ability to learn and see himself as a successful learner;
- i) develop his fine motor skills, so that he is able to achieve appropriate handwriting skills.

II Educational provision to meet needs and objectives

L will be provided with specialist teaching using multi-sensory techniques in Literacy and Numeracy. L needs to be taught in subjects involving literacy and numeracy by staff who are experienced or qualified to teach children with dyslexia.

L needs a school that caters for children with specific learning difficulties, where the curriculum is differentiated accordingly and he will have access to both occupational therapy and speech and language therapy which are integrated into the curriculum. He needs a supportive and positive structured environment that allows him opportunities to incorporate movement activities and other strategies within his daily routine to help increase his focus and behaviour modulation.

L should be taught in small groups alongside pupils with similar needs exhibiting Dyslexia so that he can learn directly from the teacher and not feel embarrassment when he faces failure. The curriculum should be delivered to L at a pace commensurate with L's slower processing, but the content needs to be appropriate to his cognitive ability and age level.

L will need to develop the use of ICT across the school day.

L's emotional wellbeing will need to be monitored by the school and, if necessary, CAMHS will need to be involved.

L needs the following speech and language therapy provision:

- Two terms of weekly 40 minute speech and language therapy intervention, either within a small group or on an individual basis, depending on the availability of appropriate peers. Where possible this session needs to be given in conjunction with a member of the support staff to enable demonstration of strategies that can be followed up on a regular basis within the classroom setting.
- Integration of speech and language therapy targets throughout the curriculum within the classroom setting to provide advice on differentiation of the curriculum to L's linguistic levels and integration of language and communication targets.
- Language and communication targets that are set up by the speech and language therapist through liaison with teaching staff and integrated throughout his learning programme.
- Annual formal language reassessment.

It is important that speech and language therapy is provided within school to enable effective liaison with teaching staff and an integrated approach.

L would benefit from visual support systems to develop his expressive language skills and this would include word blasts and word investigations to develop his use of vocabulary as well as adapted mind maps, narrative grids, storyboards and flow charts.

L needs the following occupational therapy provision:

- L needs a full Occupational Therapy Programme. This Programme should focus on developing his fine and gross motor skills, implementing an ICT

program, developing handwriting and pencil skills and improving his motor planning and sensory processing skills. The OT Programme should be revised each term and the Occupational Therapist will need 45 minutes each term for this. This programme should be done by his teaching assistant who has been present during his individual Occupational Therapy sessions.

- The occupational therapist to formally review the above recommendations once per term in order to update, monitor and adjust targets to accommodate L's needs over time as well as, provide input for his Individual Education Plan and Annual Review and attend his Annual Review.

L should attend a school providing the following:

- a) a broad and balanced curriculum, including the National Curriculum, with methods, approaches and resources differentiated to meet L's needs, ensuring that work is carefully graded and consolidated to ensure success;
- b) an Individual Education Plan regularly updated to target the objectives outlined above, with daily teaching in small groups and individually as appropriate;
- c) a daily language and communication programme devised by the speech and language therapist and implemented by school staff in collaboration with parents and other professionals;
- d) staff need to be aware of his strengths and give specific positive feedback to help develop his self esteem and confidence;
- e) a specialised learning programme that incorporates a highly structured, small steps approach built on success, to support him to develop his mathematical skills;
- f) continued daily access to programmes designed to help dyslexic children, such as the Read Write Inc programme etc., to further develop his phoneme-grapheme knowledge and fluency in applying these skills when reading and writing;
- g) L requires over learning and a multi- sensory approach;
- h) encourage his handwriting style to common letter strings/spelling patterns to encourage the development of his phoneme-grapheme correspondence knowledge;

- i) access to regular sessions where he reads with a more competent reader using the Paired Reading technique to further develop his fluency when reading texts;
- j) daily use of ICT to support his touch typing skills and curriculum access such as Number Shark, Symwnter, Clicker 5 and Word Shark;
- k) opportunities to actively engage him in his learning programme, involving him in setting targets and monitoring his progress towards them;
- l) being closely involved in target setting and target evaluation so that he can see his progress and enhance his confidence in his abilities;
- m) access to a scribe or alternative recording methods such as word processing, dictaphone when he is required to produce extended pieces of writing;
- n) an individualised programme of activities to develop his bilateral skills, weak shoulder stability and pencil grip. He should have opportunities to develop correct handwriting strategies, in particular formation, spacing and reversals during weekly handwriting lessons;
- o) close home/school liaison, with the involvement of other professionals as appropriate, to include advice to the parents on suitable homework techniques.
- p) training, advice, monitoring and direct support from the Speech, Language and Communication Service.

III MONITORING

A planning meeting should be convened by the school within two months of issuing L's statement and should include school staff, parent and other involved agencies. The planning meeting will establish L's baseline attainment in relation to:

- expressive and receptive language skills;
- literacy skills;
- mathematical skills;
- fine motor skills.

An Individual Education Plan will be drawn up to include the baseline attainments and desirable outcomes to enable L's progress to be assessed. L's progress against the targets will be regularly monitored by the relevant teaching staff. At least once a

term, the Individual Education Plan should be updated by the school in consultation with the parents and all staff working with L. He should be closely involved in reviewing his own progress and setting his own targets with the help of his teacher.

L's progress towards meeting the objectives identified in his Statement will be considered at the Annual Review meeting to be arranged by the school.

PART 4: PLACEMENT

L should attend School, an independent school.