



Additional Support Needs

DECISION OF THE TRIBUNAL

Reference

1. This is a reference in respect of a co-ordinated support plan (**CSP**), made by application dated July 2023. The appellant, a qualifying child in terms of section 18(2A) of the Education (Additional Support for Learning) (Scotland) Act 2004 (**the 2004 Act**). The reference is made under section 18(3)(d)(ia) of the 2004 Act.
2. In making the reference the appellant asks the Tribunal to require the respondent to take action to rectify a failure to provide additional support identified within her CSP (by virtue of section 9(2)(a)(iii) of the 2004 Act.

Decision

3. I uphold the reference and find that the respondent has failed in terms of section 18(3)(d)(ia) of the 2004 Act, on the basis of a failure by the respondent to make provision of additional support specified in the appellant's CSP. Specifically, during term four of the academic year 2022/2023 and (albeit to a lesser extent) subsequently, the terms of the CSP in relation to providing visual resources were not always adhered to.
4. I require the respondent to amend the appellant's CSP in accordance with the agreed text contained in the schedule to this decision no later than 14 days from the date of this decision, or by such other date as agreed by the parties.
5. I require the respondent to provide visual resources for the appellant which comply with the terms of her CSP, as amended, from the date of the amendment as specified above.

Process

6. The reference was received by the Tribunal in July 2023. A capacity and wellbeing assessment took place by way of case management call in August 2024. After considering the evidence and submissions from both parties I was satisfied that the appellant had the capacity to make the reference and that doing so would not adversely affect her wellbeing.
7. Noting the potential for anxiety surrounding the proceedings on the part of the appellant, I wrote a letter (dated August 2023) to the appellant explaining the Tribunal process to date and the next step in the process. The letter also made it clear that the Tribunal

would provide any support the appellant needed and that she could ask for support at any time.

8. The appellant lodged a case statement, attendance form and other documentation in August 2023. The respondent lodged a case statement and attendance form in September 2023. During this period the parties' representatives had been in discussion about the question of visual resources to be provided for the appellant. The parties were agreed that it would be sensible to give the appellant a period of time to settle into her new timetable, to form relationships with new staff members and for her ongoing support to be monitored and reviewed.
9. The respondent requested a suspension of proceedings in terms of rule 24 for a period of four months. The appellant was in agreement with the proposal for a suspension, but proposed a shorter period. By way of a direction dated September 2023, I suspended proceedings until October 2023. On 12 October 2023, proceedings were suspended until November 2023. On 9 November 2023, proceedings were suspended again until the end of December 2023. This was against the background of the appellant reporting "a generally improving picture at school" and to allow a meeting with educational psychology (scheduled for mid-November 2023) to take place.
10. By way of email dated January 2024, parties' representatives jointly requested that a decision be made without a hearing (in terms of rule 37(2)(c) of The First-tier Tribunal for Scotland Health and Education Chamber Rules of Procedure) and in terms agreed in writing by the parties (in terms of rule 50(2)). This decision is made in the terms proposed by the parties. Having considered the terms of the proposed decision, and the paperwork lodged by both parties, I think it fit to do so.

Findings in Fact

11. The appellant is the child. She is currently 14 years old.
12. The appellant has an autism spectrum condition and difficulties with verbal comprehension and communication. She has experienced bereavement and is a young carer. She experiences high levels of anxiety.
13. The appellant requires a CSP. In May 2023, the respondent prepared a CSP for the appellant.
14. The appellant is a pupil at school A.
15. The appellant's CSP provides for the following:

'The appellant requires visual resources to fully access the curriculum. (daily)' with 'school staff' noted as the persons providing this additional support.

16. Specifically, during term 4 of the academic year 2022/2023 and (albeit to a lesser extent) subsequently, the respondent failed to consistently provide appropriate visual resources as required by the CSP.

Reasons for the Decision

17. It is not disputed that the appellant has additional support needs in terms of section 1 of the 2004 Act and that she requires a CSP in terms of section 2 of the 2004 Act. In May 2023, the authority prepared a CSP for the appellant.

18. There has been a failure by the education authority to provide consistent visual resources, for the provision of the additional support identified within the plan in terms of section 18(3)(d)(ia) of the 2004 Act. This is not disputed by the respondent, and they have confirmed that they are not resisting the reference. As noted by the parties' representatives in their requests for suspensions, there has been a "generally improving picture at school". Both parties agree that changes in the appellant's timetable and teaching staff have been a significant factor. The respondent has taken steps to try and ensure that appropriate visual resources are provided, and that the appellant's feedback continues to be taken into account.

19. In terms of section 19(3) of the 2004 Act, I 'may require the education authority to take such action to rectify the failure as the First-tier Tribunal considers appropriate by such time as the First-tier Tribunal may require.' Parties are agreed that I should require the respondent to amend the CSP, and to thereafter make provision for visual resources, in accordance with the contents of the amended CSP.

20. The powers of the Tribunal in this regard are broadly framed and in the circumstances of this case it is appropriate that these powers are used in this way.

Schedule to Decision

In the appellant's CSP, the following amendment is to be made.

Where they appear, these words are to be deleted:

The appellant requires visual resources to fully access the curriculum. (daily)

and replaced with:

'The appellant will be provided with visual resources in all classes, with the exception of practical classes, where demonstrations would otherwise be undertaken. These will include an explanation of the tasks the appellant requires to complete for that class, appropriately differentiated for her. The tasks should be broken down into small, sequential steps and include picture prompts where possible. The class teacher or support assistant will explain the tasks for the appellant and provide support where required.

The visual resources should be accessible on Google Classroom, and conform to the good practice examples highlighted by the appellant herself.'