



**DECISION**

**Date of Birth:** 2012  
**Appeal of:** The Parents  
**Type of appeal:** Prepare and Maintain IDP  
**Against Decision of:** The Local Authority  
**Date of hearing:** April 2023  
**Persons present:** N/A Paper hearing

**A. Appeal**

1. The Parent's appeal under section 70(2)(a) and (b) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (the Act) against the decision of Local Authority County Council (LA) that it is not necessary to prepare and maintain an Individual Development Plan for the Child.

**B. Preliminary Issues**

2. The appeal application was filed in 2022. In their application the Appellants indicated that they were content for the case to be decided on the papers.
3. The LA initially filed a case statement opposing the appeal.
4. However, in March 2023 the LA's representatives informed the Tribunal Secretariat that the LA had decided to withdraw its opposition to the appeal. They were conceding the appeal on the basis that the Child has additional learning needs and due to the fact that they are unable to attend school it is accepted that an Individual Development Plan needs to be issued and maintained by the LA.
5. Although the Appellants had the option of withdrawing this appeal they have chosen not to do so.
6. In circumstances where a local authority withdraws its opposition to an appeal, Regulation 23 (1) (c) of the Education Tribunal for Wales

Regulations 2021 enables the tribunal panel to determine the appeal without holding a hearing.

7. In the circumstances the tribunal concluded that it was appropriate to determine this appeal without a hearing.

### **C. Facts**

8. The Child was born on the 2012. They are now eleven years and nine months of age. The Appellants are her parents, the Parents.
9. The Child suffers from early puberty, insomnia, demand avoidance and angry outbursts. On the 2022 the Child received a diagnosis of ASD by the County Neurodevelopmental Service. This assessment further concluded that the Child has significant emotional, social and learning needs which need to be addressed.
10. The Child is registered at School and at the Pupil Referral Unit. Due to her difficulties, the Child has not been attending school.
11. On the April 2022 the School confirmed that the Child had additional learning needs but that the school was unable to determine the additional learning provision required due to the Child being unable to attend school.
12. On the October 2022 the LA's panel concluded that the Child does not have additional learning needs on the basis that the provision identified as required to meet her needs could be provided by Universal Learning provision.
13. On the December 2022 the parents issued an appeal against the decision that the Child does not have additional learning needs that required additional learning provision and that it is not accordingly necessary to prepare and maintain an individual development plan for her.
14. On appeal the tribunal may either dismiss the appeal or inter alia direct the LA to prepare an individual development plan.

### **D. Tribunal's Decision with Reasons**

15. We have carefully considered all the written evidence and submissions presented to the tribunal. We have also considered the relevant statutory provisions and the Additional Learning Needs Code for Wales 2021. We conclude as follows.

16. 'Additional learning needs' are defined as follows by section 2 of the Act:

**(1) A person has additional learning needs if he or she has a learning difficulty or disability (whether the learning difficulty or disability arises from a medical condition or otherwise) which calls for additional learning provision.**

**(2) A child of compulsory school age or person over that age has a learning difficulty or disability if he or she – (a) has a significantly greater difficulty in learning than the majority of other of the same age or (b) has a disability for the purposes of the Equality Act 2010 which prevents or hinders him or her from making use of facilities for education or training of a kind generally provided for others of the same age in mainstream maintained schools or mainstream institutions or in the further education sector.**

17. 'Additional learning provision' is defined in section 3 of the Act:

**3(1)**

**"Additional learning provision" for a person aged three or over means educational or training provision that is additional to, or different from that made generally for others of the same age in:**

**(a) mainstream maintained schools in Wales**

**(b) mainstream institutions in the further education sector in Wales,  
or**

**(c) places in Wales at which nursery education is provided.**

18. As indicated above the tribunal has considered all the documentary evidence filed in these proceedings but it is unnecessary to evaluate this evidence in detail as the LA has, albeit belatedly, conceded the appeal and accepts that the Child requires an individual development plan. There are clearly a number of current barriers to her benefitting from learning in a mainstream environment.

19. Furthermore, it is accepted that it falls to the LA to be responsible for preparing and maintaining an individual development plan for the Child.

19. Time is now of the essence and the LA needs to work expeditiously and in accordance with the statutory timescales to prepare an Individual

Development Plan for a young lady with complex additional learning needs.

20. On the basis of the concession made by the LA, the tribunal finds:
- (a) that the Child has additional learning needs, and
  - (b) that it is necessary for the LA to prepare and maintain an Individual Development plan for the Child

**ORDER:—**

The LA is directed to prepare and maintain an Individual Development plan.

**Dated April 2023**