

This case study is a case summary, and has been developed solely as a training tool for the purposes of the DfE/IPSEA SEND Decision Making and the Law Workshops, delivered in Autumn 2018

### **Case Study 2: Refusal to Issue a Plan Decision**

There is evidence that Michael has some areas of learning difficulty although, on the evidence of the EP, there were areas in which he was able to acquire new skills well. He is achieving above the level expected for a pupil of his age in word reading and reading comprehension but his ability is below the age expected levels in spelling and is considerably delayed in numeracy, particularly in numerical operations.

It is not disputed that Michael has sensory processing difficulties and that he has social communication difficulties.

The issue for the Tribunal is to determine whether there is evidence that, in the light of the EHC needs assessment, it is necessary for special educational provision to be made in accordance with an EHC plan for Michael. Whilst education and health may overlap, we have to ensure that we do not stray into provision that might be in a health plan as this is outside the jurisdiction of this Tribunal.

We heard evidence from Mrs Patel about the provision that would be available in school to meet Michael's special educational needs and the reasonable adjustments that would be made to ensure his safety. We heard that the special educational provision would be expected to be made out of the £6000 per year given to schools to meet the special educational needs of pupils who did not have an EHC Plan. We heard from the Advisory Teacher with the Physical Impairment and Medical Support Team that, should medical advice specify that a support assistant was necessary to ensure that Michael was not exposed to allergens, this would be funded by High Needs Funding on application to the Health Service, which would also provide funding for Michael's toileting needs. This would form part of a health plan.

We were satisfied that Michael's special educational needs were not such that they required special educational provision to be made in accordance with an EHC Plan and that his health needs would be addressed under a health plan.

Order Appeal dismissed.