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Legal ruling threatens rights of special needs pupils, say lawyers

Monday 26 August 2013

A new legal ruling has eroded the rights of thousands of Scottish parents who have children with special needs, lawyers have warned.



Andrew Denholm
Education Correspondent



Govan Law Centre, in Glasgow, believes the findings of a tribunal earlier this month undermine a key legal document setting out the levels of support provided by councils to pupils with additional support needs.

The case centres on nine-year-old autistic pupil Thomas Lloyd, who was given a co-ordinated support plan (CSP) by Glasgow City Council which said he would receive weekly speech and language therapy to help his communication.

Despite the contents of the CSP, Thomas was not given speech and language therapy when he attended St Kevin's special school, in Springburn, last year and the family, from Broomhill in the city's west end, took the case to a tribunal.

At the hearing, the council successfully argued there was no requirement to provide the support because the pupil did not need it, despite the fact it was expressly detailed in his CSP.

In a subsequent review of the decision by the tribunal, the panel said the position of a parent with a CSP stating their child should get speech and language therapy was "no different" from that of a parent with no CSP.

Iain Nisbet, head of education law at the Govan Law Centre, said the ruling threatened the rights of all parents with a CSP.

"We are extremely concerned about the impact of the decision because, if it is correct, it means a CSP is effectively unenforceable and not worth the paper it is written on," he said.

"If a child's circumstances change, then the authority is free to review a CSP at any time, but if, as in this case, they have not done so, then parents should be able to rely on that document.

"We will be calling on the Scottish Government to amend the legislation to ensure parents can rely on the statutory document of the CSP."

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Moira Simpson, the child's mother said: "We were very surprised when the council did not give Thomas any speech and language therapy because we thought it was guaranteed under the plan. It is support we feel he very much needs to help with his communication and cannot understand how the council can get away with not providing it."

Carla Rowden, senior education rights co-ordinator with the National Autistic Society Scotland, backed call for the ruling to be looked at by ministers.

"Many families struggle for years to access effective support for their children and those with a CSP rely on it as a means to secure necessary support and ensure long-lasting, meaningful and positive change to their children's lives," she said. "The Scottish Government must ensure CSPs remain a reliable, effective means of securing support that allows children and young people to reach their full potential."

A Glasgow City Council spokeswoman said: "Co-ordinated support plans, by their very nature, are not prescriptive and need to be flexible to change along with a child's needs. This, of course, will be done within the confines of the legislation."

A Scottish Government spokesman said: "The law places clear duties on education authorities to identify, make provision for, and review the additional support needs of all their pupils."



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Laura Root · a month ago

This really smacks of cost cutting by the council, rather than a genuine non financial reason why speech therapy was no longer necessary. And the bigger issue of lack of enforceability of these csp is alarming.

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Scott Nicol, Glasgow · a month ago

Joe Morrow should stick to applying the law instead of trying to re-invent it to the benefit of his old pals in the Council Chambers.

Maybe the child would have benefited from some additional tutoring in the handshake department?

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Ian Thatcher · a month ago

I am appalled that Glasgow City Council justifies lack of provision in this way. I am normally resident in Glasgow but living temporarily in Finland. The services my disabled son receives are now first class. The therapies in Scotland were patchy and inadequate. The reality is that disabled citizens of Scotland are disadvantaged and the political will is absent to address this. What will the Executive actually do?

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