

DECISION OF THE TRIBUNAL

Gender: Female

Aged: 15

Type of Reference: Placing request

[*The Tribunal requested the attendance of Witness D to give evidence before the Tribunal].

The Tribunal noted all written witness statements including any mini CVs.

The Tribunal invited The child to meet personally with the Tribunal members.

The child attended the venue at the beginning of the second day of evidence and met informally with the three Tribunal members in a smaller room.

1. Reference:

(‘the Appellant’) made a Reference, received in September 2015, under Section 18 (1) and (3)(da) of The Education (Additional Support for Learning)(Scotland) Act 2004, as amended by The Education (Additional Support for Learning)(Scotland) Act 2009 [hereinafter referred to as ‘the 2004 Act’] against a Decision by The Authority (‘the Authority’) confirmed in writing on 1st July 2015 to refuse a Placing Request made by the Appellant in respect of The child (‘The child’).

2. Decision of the Tribunal:

The Tribunal in terms of Section 19(4A)(b)(i) and (ii) of the 2004 Act hereby OVERTURN the aforementioned Decision of the Authority, first intimated to the Appellant in writing on 1st July 2015, to refuse the Placing Request.

The Tribunal is not

- (i) satisfied that one or more of the grounds specified in Paragraph 3(1) of Schedule 2 to the said 2004 Act exist or exists, and furthermore
- (ii) In all the circumstances, it is not appropriate to confirm the Authority's decision to refuse the Placing Request for The child.

The Decision of the Tribunal is unanimous.

The Tribunal therefore require the Authority

- (a) to place The child in School A. In light of The child's pending public examinations, the Tribunal order that the said placement at School A is facilitated with immediate effect without any unreasonable delay;
- (b) to amend the specified school in any Co-ordinated Support Plan for The child to School A; and
- (c) to forward a copy of the amended Coordinated Support Plan to the Appellant and her nominated Legal Representative (Appellant's representative) within 21 calendar days from the date of this Decision.

3. Preliminary Issues:

There was some Late Evidence received in this Reference. The Tribunal sought the views of both parties throughout. Both parties confirmed there was no objection to either party lodging Late Evidence.

In view of the nature of this evidence, representations from parties, their mutual consent and agreement to late lodging, and the said evidence being relevant to this Reference, the Tribunal was satisfied that, in all the circumstances, it would be fair and just to allow all Late Evidence pursuant to Rule 34 of the Rules of The Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2006 as amended by The Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2010 [hereinafter referred to as 'the 2006 Rules'].

The Tribunal itself requested further additional information during the hearing of the evidence to assist their deliberations. We also requested hearing directly from Witness D. We thank both Representatives for their very full

cooperation throughout the case. We are grateful to Witness D for making herself available to give evidence to the Tribunal.

All additional Late Evidence was therefore lodged into their respective sections and numbered accordingly within the bundle.

It was agreed in this case that the Authority would lead evidence first.

There were several Case Management Conference Calls leading up to the various hearing days. The Representatives assisted the Convener to manage, wherever possible, the attendance of the witnesses with a view to reducing any avoidable inconvenience to them.

The Tribunal issued a number of written and oral Directions/Decisions leading up to the formal hearing of the evidence.

The Tribunal had careful regard to the Overriding Objective in terms of Rule of the 2006 Rules.

4. Summary of Evidence:

The Tribunal considered a detailed bundle of evidence (including any Late Evidence). The Tribunal also had regard to:

- (a) the Appellant's Case Statement, and
- (b) the Authority's Case Statement in respect of this Reference.

In addition to the above, the Tribunal heard oral evidence from The Appellant and The child.

We also noted evidence from:

- (i) Witness A (Educational Psychologist, The Authority),
- (ii) Witness B (Principal Teacher Pupil Support at School B),
- (iii) Witness C (Head Teacher at School A), and
- (iv) Witness D (Consultant Child and Adolescent Psychiatrist).

We do not intend to list all the documentary productions lodged by both parties. The Tribunal also had regard to the legal case law lodged by parties. The Tribunal further considered written submissions from both parties. The Tribunal wish to record their appreciation to both parties for their written submissions.

After the third day of evidence the three members re-convened to consider afresh all of the evidence, the written submissions and case law. The members liaised thereafter to finalise the written Decision.

It is not possible or indeed appropriate to record every aspect of our deliberations.

Views of The child:

The Tribunal met with The child on one occasion for over one hour. The child agreed to meet the panel members in private in a smaller room on her own.

The child expressed a clear desire:

- (i) to attend School A and
- (ii) not to return to School B.

She explained her reasoning for these choices, together with her interests, anxieties and expectations for the future.

The Tribunal explored a wide range of issues with The child.

The child talked warmly of her close bond with Witness B.

In considering The child's views and all the other evidence presented it was very clear to the Tribunal that Witness B and The child work well together and that The child had benefitted from the positive relationship she has had with Witness B.

The Tribunal introduced a small comfort break during The child's evidence.

The child was happy, enthusiastic, and positive about her time at School A. She stated that she was truly able to be herself there and that she immediately fitted in. She stated that this was the first time she had ever felt like that in any school setting.

The Tribunal formed the view that The child was open and honest in her evidence to the panel. We regarded her as reliable and credible in her evidence to the Tribunal.

5. Findings in Fact:

[1] The child is a fifteen year old girl, who resides with the Appellant.

The child has been diagnosed with Autistic Spectrum Disorder ('ASD'). This was diagnosed when she was 12 yrs old. It is not in dispute that The child has additional support needs.

The child has a Co-Ordinated Support Plan ('CSP') which states that The child has been assessed as having Autistic Spectrum Disorder ('ASD') and Attachment Disorder (as a result of early traumatic experiences).

The CSP also discloses that The child displays Oppositional and Conduct Behaviours and has social, emotional and behavioural difficulties and challenges. .

The child also has significant mental health issues and this is related to her diagnosis of Autistic Spectrum Disorder. She is currently under the care of Child and Adolescent Mental Health Service (CAMHS). It is accepted that The child had a disrupted childhood in respect of family lifestyle and her multiple mainstream school placements.

The child and The Appellant are aspirational in respect of The child's future education after school. The child expresses a desire to attend College or University. It is accepted that The child is a child with academic potential.

The Appellant made a Placing Request for the child.

This was refused by the Authority in terms of Schedule 2, Paragraph 3(1) (f) of the 2004 Act.

[2] The Education Authority is responsible for The child's school education. The child is currently registered as a pupil at School B ('School B'), the largest mainstream secondary school in Authority with a role of around 1568 pupils or thereabouts across six year groups. The child has been a pupil at School B

since she joined second year (S2). She is currently approaching the end of her fourth year (S4).

The Tribunal heard evidence in respect of previous mainstream school placements prior to School B.

In respect of this Placing Request the Tribunal required to consider two secondary schools namely School B and School A ('School A'), the specified school

School A, is an independent special school for young people with additional support needs. The majority of the pupils attending School A are affected by Autism Spectrum Disorder and are considered to be academically able. We observe that Appellant's representative in her written submissions described the peer group at School A as high functioning autism. The child has experienced a range of difficulties at all of her mainstream school placements thus far.

[3] The child no longer attends any mainstream classes at School B. This has been the position almost throughout fourth year. The child remains in the Authority Base for her education. The child is unable to access an appropriate peer group within School B, either in mainstream setting or within the Base.

[4] The child attends School B two days a week. She also attends outreach centre one morning a week. The child travels approximately 13 miles to and from both of these placements. Currently The child is studying English, Modern Studies and Religious, Moral and Philosophical studies at National 5 level and Mathematics at National 4 level. The child is on an approved flexible education package.

The child intends to study for her Highers in fifth year.

[5] School A is not a public school. It is the specified school and the school the Appellant is seeking for The child. It is a small school. It is an independent special school. The school roll is small – approximately 26 pupils or thereabouts, aged 12-18 years old. The child would have a consistent and appropriate peer group at School A. The child has attended School A for

taster sessions including residential visits. She enthusiastically spoke of having a peer group at School A when she met with the Tribunal members. She stated this was the first time she had ever experienced this.

She did not consider herself to have any peers at School B. Each visit to School A was successful. The child was happy there and experienced reduced anxiety levels.

[6] The Appellant accepts that School A is not a public school. The Appellant further accepts that the Authority has been allocated a place at a local authority school namely School B. The Appellant therefore concedes that paragraph 3(1) (f) (i) and (iv) apply. The Appellant seeks to argue that paragraph 3(1) (f) (ii) and (iii) do not apply.

The Appellant argues that even though School B has endeavoured to do their best for The child, the Authority is unable to make provision for The child's educational and additional support needs. The Appellant further argues that School B is unable to provide an adequate and efficient education for The child.

[7] In this case the Authority led evidence from Witness A, Educational Psychologist and Witness B, Head of Learning Support at School B. The Respondent, whilst presenting the case on behalf of the Authority, provided evidence throughout the hearing as the Educational Officer for The Authority. The Appellant and The child gave evidence to the Tribunal. The Appellant called Witness C, Head Teacher at School A.

The Appellant lodged at a very late stage in the proceedings a letter from Witness D.

The Tribunal requested to hear directly from Witness D who is a Consultant Child and Adolescent psychiatrist with Authority Child and Adolescent Mental Health Service (CAMHS).

With the assistance of parties arrangements were made to hear Witness D's evidence by Conference Call.

Witness D answered a wide range of probing questions from the Tribunal members, Appellant's representative and Respondent Representative.

[8] Witness A is employed by the Authority, The Authority. She is the link Psychologist to School B. In her role, she utilises her knowledge and expertise to give independent advice and support.

Witness A stated in her evidence that The child's challenges were primarily due to social communications difficulties and the anxiety which arose from those difficulties. She fully supported the placement at School B for The child. She stated that rather than moving away from her current school placement at School B, The child should stay there and learn to adapt to her environment. She argued that by remaining at School B, and facing her difficulties, this would make The child more resilient.

Witness A felt that The child was not increasing her time at School B because she was focussed on moving to School A. Witness A was of the view that The child's challenges will remain the same regardless of which school she attends.

Witness A confirmed that The child was, in her professional opinion, capable of going to University. She told us of various link opportunities for The child to attend local Colleges and an Access Project with A University. This Project aims to get young people into Higher Education who may not otherwise be able to achieve this. Witness A stated that The child may be able to access this Project.

Witness A described the movement of pupils within the Base at School B where The child effectively is educated. Witness A was of the opinion that The child had access to a mix of socially able peers within the Base. She rejected the suggestion that The child is unable to spend time with socially able peers within the Base. Witness A in her evidence stated that 10 to 14 pupils float in and out of the Base and about 4 or 5 young people spend a greater amount of time within the Base but not necessarily when The child is there. The Tribunal did not find Witness A's evidence persuasive.

We concluded that The child does not have a meaningful peer group at School B. If The child did have a peer group at School B none of the witnesses from School B were able to describe or even identify that peer group.

Witness A described the many opportunities and available resources available to The child at School B. Witness A accepted that the various efforts and

methods adopted in The child's fourth year had been relatively unsuccessful. However she concluded overall in her Report that The child had made 'significant progress within The Authority educational provision'.

Witness A considered that The child's ASN are:

- (A) Autism Spectrum Disorder,
- (B) Peer relationships,
- (C) Attachment to peers, and
- (D) Anxiety within school.

Sensory issues, whilst acknowledged by Witness A, did not appear to her to be regarded as a significant issue within the school for The child.

Witness A accepted that The child's anxiety is a barrier to her learning and to her attending classes. In respect of The child's inability to participate in drama at School B and being able to fully engage with a drama production at School A, Witness A observed that The child clearly felt comfortable at School A and suggested that this may be connected with the large proportion of ASD children at School A.

Witness A believed however that The child is receiving a wide and appropriately varied curriculum at School B. She stated that The child is a talented girl - especially in English, and is academically able to do more National 5s than she is currently studying for.

Witness A did not support any move to School A and expressed concern about The child leaving School B on an unplanned transition.

Witness A highlighted the excellent relationship The child has developed with her teacher Witness B. She stated that removing The child from that relationship would be potentially detrimental.

The Tribunal concluded that notwithstanding the excellent provision within School B, The child is unable to access what School B has to offer.

[9] Witness B is Head of Pupil Support at School B. Witness B advocates for young people to ensure their additional support needs are met. Witness B has over 300 children under her care but she has close involvement with The child primarily in a pastoral capacity. She does not teach The child. Significant

efforts have been made throughout the school to help The child integrate into mainstream classes at School B.

It is accepted that Witness B and The child have a very positive relationship. Witness B spoke with great warmth about The child describing her as having a great sense of humour, chatty, bright and articulate. Witness B is of the view that The child has a huge amount of potential.

Witness B described School B as a 'restorative school' where relationships underpin everything.

Witness B stated that learning in her opinion is enhanced by positive relationships. Witness B was clear that The child has not been able to access an effective peer group at School B. Witness B stated that The child does not relate to other students within School B. This extends to mainstream classes and within the Base. Witness B confirmed that peer issues were also behind attendance issues for The child.

Re-integration to mainstream has worked in the past for The child but she has been unable to access mainstream classes during her 4th year at School B.

The child now accesses a part-time timetable within the support Base.

It has not been possible in 4th year to re-integrate The child into any mainstream classes.

Witness B views The child's negativity, low self esteem and anxiety with peers as her primary barriers to learning. Notwithstanding this view, Witness B believes that School B is the best place to prepare The child for social situations beyond school.

Witness B stated that in her opinion The child was effectively making a choice not to access mainstream classes. Witness B did however accept that The child has difficulties with social interaction. Witness B did not dispute that School A would meet The child's needs. The child told Witness B how much she enjoyed her time at School A and that she had instantly fitted in there having never experienced that before. Witness B accepted that whilst there are many opportunities available for The child at School B, The child is unable to access these opportunities.

Witness B accepted that The child had no peer group and that she has difficulties with social interaction.

[10] Witness C has been the Head Teacher of School A since previously being the Head of Education there. He recommended that in his opinion if the Tribunal grant the Placing Request an immediate transfer would be in The child's best interests. School A would present The child for her exams and support The child if this was required of them.

School A has a wide cohort of pupils affected by Global Developmental Delay, Autism Spectrum Disorder and Attention Deficit Hyper-Activity Disorder.

The child would be a residential pupil because of the travelling distance from her home. She would therefore experience a 24 hour curriculum at School A living there five days a week returning home to reside with her the Appellant at the weekend. Witness C stated that School A would be able to provide for the subjects The child opted to study in 5th year. Some teachers are dual qualified in multi-disciplinary subjects whilst others have been approved to teach subjects beyond that in which they are specifically qualified.

Witness C confirmed that such teachers undertake all the appropriate work to ensure they are authorised to teach those subjects.

Witness C stated that every pupil at School A is dealt with individually and on a personal level. By way of example, he stated that if The child wished to study Higher Psychology, School A would make appropriate provision for this to happen.

At School A no child learns in isolation. Witness C stated that social interaction is so important for all pupils at School A especially children and young people, like The child, affected by ASD.

At lunch time each day staff and pupils come together in the gym hall to talk about the morning. Witness C stated that this provided an opportunity to discuss stories and any problems. Witness C told us that he chooses a different student to lead this activity each day.

A range of activities take place every Friday, such as playing football, going a walk or a cycle. Every student participates in physical activity. Witness C stated that taking part in such an activity would be important as he considered The child was isolated from her peers and spent most of her time indoors.

As a resident at School A, The child would also have activities every evening which would give additional opportunities to engage with pupils/peers outside of the classroom. This would promote socialisation.

Witness C stated that The child would be residing in the Lodge which accommodates eight senior pupils. The pupils would be responsible for their own cleaning and self care. Witness C considered that this increased responsibility would be important for The child.

The Tribunal noted the local connections the school have with The area.

Witness C stated that School A is well equipped to understand The child. The child would have an individual education plan and would have specially directed classes to address her autism in a social skills class.

Witness C was of the professional opinion that The child is a bright child who could achieve more if placed within the right environment. Witness C was confident that The child would be better able to reach her potential at School A.

Witness C described the pupils at School A as 'kindred spirits'. He stated that because they feel they 'fit in' at school their "body armour of anxiety drops away resulting in them feeling comfortable amongst their peers". For The child, having friends and being sociable is very important. Witness C stated that his staff would structure and support activities with peers to develop The child's socialisation skills.

Witness C told the Tribunal that during The child's visits to School A she made friends very quickly and was able to socialise. The child worked well in her various class groups during her time at School A. She seemed to fit in well with the other pupils. The staff considered that The child seemed happy and content at School A.

Witness C was of the opinion that The child was no longer able to attend mainstream at School B due to her level of anxiety. Witness C believed that The child would not experience the same level of anxiety she experienced at School B if she attended School A. He stated that the reduction in The child's anxiety levels would allow her to better access the curriculum, develop a peer group, socialise better and improve academically.

Witness C did not agree that a transfer to School A from School B would be detrimental to The child. He described her time at his school as a happy

experience for The child. He stated that in his opinion The child remaining at School B would not be beneficial to her. He stated that The child would stabilise and settle quickly at School A with the support of his experienced staff.

[11] The Appellant stated that even with the adaptations School B has made The child is not able to fully engage in education in a mainstream environment or even within the support Base.

The Appellant has supported the child in every way. She has worked tirelessly to develop and sustain a loving/trusting bond with The child. She is concerned that The child will completely disengage from her education if she is to continue her education at School B.

The Tribunal noted from The Appellant how exhausting The child found attending School B. We noted from The Appellant that The child spends most of the evening sleeping when she gets home from a full day attendance at School B. The Appellant sensitively shared with the Tribunal her concerns about The child's ongoing mental health issues. The child is currently under the care of Witness D and is receiving medication which, due to The child's age, can only be prescribed by a psychiatrist.

The Appellant expressed great praise for School B and in particular the very supportive role of Witness B. School B and Witness B have effectively done everything possible to help support The child to be able to access her education.

The Appellant believes that School B cannot do anything else to help The child. The Appellant has carefully assessed The child's needs and what School B and School A can offer. She wishes the child to attend School A. She feels that The child is unable to effectively engage in education at School B notwithstanding the many adaptations the school have made.

The Appellant described The child's sensory issues within School B. She considers they act as a real barrier to The child's learning at School B.

The Tribunal considered the Appellant to be a reliable and credible witness.

[12] Witness D is a Consultant Psychiatrist with CAMHS. She has extensive experience working with children and young people on the autistic spectrum.

Witness D provided expert evidence to the Tribunal about the impact of sensory issues for the child with her accepted diagnosis. If the child is in a busy environment her senses will be heightened, her anxiety will increase and her resultant functionality will fall.

Witness D was of the view that The child is not truly being exposed to social learning at School B. She described The child as being isolated. She stated that in reality The child has no peers and is now receiving less teaching time than the majority of pupils attending School B.

Witness D stated that The child would benefit from a low sensory environment and that this would be likely to have a positive impact upon The child's mental health. She stated that such a low sensory environment cannot be achieved for The child at School B as it is such a large school.

The Tribunal observe that the Authority have not considered any other school within their provision as more suitable for The child.

Witness D argued that allowing The child to establish relationships with other young people with difficulties would allow The child to make connections, build trust and confidence in social situations. This would then allow her to develop further relationships with a wider circle of peers.

Witness D stated that when The child is in an aroused state of anxiety her ability to learn will be low. This in turn would create a downward spiral of feeling inadequate and having low self-esteem. Witness D stated that placing The child at School B (a very busy environment) was like trying to place a 'square peg into a round hole'. Put simply, it will not fit.

Witness D stated that placing someone like The child at School B would not create an optimum learning environment for The child.

Witness D stated that The child's ASD was preventing her from accessing education. She stated that it was necessary to properly address the ASD in a targeted way. In her opinion The child required a specialised targeted provision such as School A.

Witness D stated that education is not just academic learning. She stated that social learning and social communication are important for The child, and if addressed, could improve The child's accessibility to academic learning.

Witness D stated that if The child accesses the right sensory environment and appropriate peers this would serve to lower The child's anxiety which could

enable Witness D to review and possibly reduce The child's current medication.

Witness D stated that in her opinion she had found The child to be an honest person in respect of her presentation and what information The child had disclosed to Witness D.

Witness D was very clear that in her professional opinion The child would not be able to reach her potential at School B. She was equally clear that School A would be a better fit for The child's needs.

The Authority led no independent medical evidence to challenge the evidence of Witness D. The Authority appeared to be critical of Witness D in their cross-examination of her evidence. The Tribunal hold Witness D to be reliable and credible as a witness. The Tribunal found Witness D to be very measured in her evidence. She is rightly regarded as an expert in her field and offered relevant expert testimony in respect of her patient, The child.

[13] It is reasonable, having regard to the respective suitability and the respective cost of provision for the additional support needs of The child at School B and School A, to place The child at School A. The Authority, notwithstanding their genuine efforts to support The child, is unable to make adequate and effective provision for The child's additional support needs at School B.

[14] It is not appropriate for The child to remain at School B. School A is a suitable school for The child. The school is well experienced in supporting the additional support needs of children and young people with a diagnosis of ASD. School A is equipped to cater for The child's academic ability, social communication difficulties, anxiety associated with her ASD and transition to post-school provision. The Tribunal therefore overturn the Decision of the Authority to refuse the Placing Request for The child to be placed in School A. We overturn the Decision of the Authority to place The child in School B. The child should therefore be placed at School A without delay and with immediate effect especially in light of the public examinations The child is about to sit in the next few weeks.

6. Reasons for Decision:

The Tribunal considered all the evidence within the productions initially lodged, together with all the late evidence lodged, the oral evidence of the parties and the witnesses who attended. The Tribunal had regard to the views of The child especially having met her. We also considered all submissions made on behalf of both parties.

It is not practical, appropriate or necessary to narrate every aspect of the evidence in this written decision. We note that many of the witnesses lodged written mini-CVs to assist the Tribunal. We also were provided with some written statements which were entered into evidence.

We thank everyone for their assistance.

The Statutory Provisions

The powers of the Tribunal are set out in Section 19 of the Act.

The Tribunal may confirm the decision if it is satisfied that a ground exist or exists and, in all the circumstances, if it is appropriate to do so.

The Authority recognised that the Local Authority bears the burden of satisfying the Tribunal that there is both a statutory ground for refusal of the Placing Request and that refusal is appropriate in all the circumstances.

The Tribunal may overturn the decision and require the Education Authority to place the child in the school specified in the Placing Request.

The Authority moved the Tribunal to confirm the decision of the Authority in terms of Section 19(4A) of the 2004 Act.

Section 22 of the 2004 Act is the relevant section in so far as it states that 'Schedule 2 makes provision about placing requests in relation to children and young persons with additional support needs'.

Turning to Schedule 2 of the 2004 Act, this deals with the Authority's duties to comply with a placing request.

Paragraph 2 of Schedule 2 of the 2004 Act relates to the duty to comply with placing requests.

Paragraph 3 of Schedule 2 of the 2004 Act [headed 'Circumstances in which duty does not apply'] provides a list of grounds which the Authority could seek to argue in support of non-compliance with the duties in the aforementioned Paragraph 2.

Section 19(4A) of the 2004 Act states the power of the Tribunal and the two stage test which the Tribunal must apply.

In the **first stage**, the Tribunal requires to determine whether it is satisfied that the Authority has established that one or more grounds of refusal, as provided within Schedule 2, paragraph 3(1) of the 2004 Act, exist or exists.

The Authority relies on Paragraph 3(1) (f), namely:

(f) if all the following conditions apply, namely-

(i) the specified school is not a public school,

(ii) the Authority are able to make provision for the additional support needs of the child in a school (whether or not a school under their management) other than the specified school,

(iii) It is reasonable, having regard both to the respective suitability and the respective cost (including necessary incidental expenses) of the provision for the additional support needs of the child in the specified school and in the school referred to in paragraph (ii), to place the child in the specified school, and

(iv) the Authority have offered to place the child in the school referred to in paragraph (ii).

If the Tribunal is thus satisfied that this ground exists then, and only then, the Tribunal moves to the second stage. Clearly in this case the Appellant argues that in all the circumstances The child should be placed at School A.

In the **second stage**, the Tribunal must exercise its discretion and determine whether, in all the circumstances, it is appropriate to confirm the Authority's decision.

In this case Respondent Representative argued that in all the circumstances The child should continue to be placed at School B. Appellant's representative argued that The child should go to School A.

The onus is on the Authority to establish that one or more of the grounds exist or exists, and to satisfy the Tribunal that in all the circumstances it is appropriate to confirm the decision of the Authority.

The Tribunal considered all the evidence presented in respect of the Authority's ability to make provision for the additional support needs of The child.

The First Stage:

[Whilst the Tribunal had regard to all of the evidence presented to us we now explore some aspects of the evidence in further detail]

We have already highlighted above some of the evidence we considered.

In this case, it is accepted that School A is not a public school. School A is the specified school.

Having considered the suitability and costs provided in respect of a residential placement for The child at School A, the Tribunal finds that it is reasonable, having regard both to the respective suitability and respective cost (including necessary incidental expenses) of the provision for the additional support needs of The child in School B and School A, to place The child in School A. The Authority continue to offer a place to The child at School B.

The Tribunal is satisfied that there are significant positive advantages to The child attending School A. The additional cost of sending The child to School A is in the opinion of the Tribunal a reasonable cost for The child and her future

school education. She has the ability to succeed and she should be given the opportunity to be able to better access her education at this stage in her school career. The child also wants to learn and genuinely aspires to onward learning after her school education.

Parties submissions have been considered in respect of respective costs.

The Tribunal considered the correct approach to the interpretation of 'respective costs' is that outlined by Lord Glennie (see **SM Appellant [2006] CSOH 201**) and approved by the Inner House (see **JB-v-Glasgow City Council [2013] CSIH 13**). The Tribunal do not accept the cost per-pupil submission made by the Appellant. We are not minded to reject the opinion of Lord Glennie having considered the Appellant's submissions.

The Tribunal consider what is relevant is the additional cost to the Authority.

The Tribunal was satisfied that the cost to the Authority in respect of a placement at School A would be the annual fees of School A. The Authority has also provided costings for the provision of transport for The child attending School A and School B.

The Tribunal followed and adopted the remarks within the Opinion of the Inner house in the aforesaid **JB -v- Glasgow City Council** where the interpretation of paragraph 3(1) (f) (iii) was specifically addressed:

'We agree with the approach adopted by Lord Glennie in SM, Appellant which has the attraction of being readily understandable and relatively straight forward to apply. What the Tribunal should be considering, when applying the test of reasonableness to the question of respective cost, is a comparison of what it will cost the Education Authority to make provision for the additional support needs of the child in a school, referred to in Paragraph 3 (1) (f) (iii) of Schedule 2 to the Act, with the costs to the Education Authority of making provision for the additional support needs of the child in the specified school'. In this case we accept the position adopted by Lord Glennie when he stated that if a child is placed in a fee paying school [such as School A] 'the school fees (and other necessary incidental expenses) to be paid by the Education Authority will be the measure of the cost to the Education Authority of making

that provision'. Whereas Lord Glennie concluded that where a child is placed in a state school [such as Govan] *'the cost to the local authority of making that provision will be measured only in terms of what further expenditure is necessary to enable it to meet [the child's] needs'*.

The Tribunal endorse and adopt Lord Glennie's concluding comments that any other approach is 'highly artificial'.

The Tribunal was not minded to adopt any alternative approach when approaching the matter of 'respective costs' of a placement at School B and School A.

In this case the Authority provided the Tribunal with a range of financial information namely a total of £6539.

However the comparison in cost is a comparison between the *additional* cost of having The child at School B - which is the transport cost of £12,350 - and the cost of a residential placement at School A, namely £61,867.

Using this interpretation of comparison the difference in the two figures [calculated as £61867 minus £12350] is £49517.

The Tribunal had regard to all the arguments presented to us in respect of costings. We approached this on a reasonable interpretation of what it would actually cost the Authority in the event The child moved to School A.

We do not accept that when assessing the respective suitability and respective cost (including necessary incidental expenses) of the provision for the additional support needs of The child at School A and at School B, it is unreasonable to refuse place The child at the specified school, namely School A.

The Second Stage [if required]

If the Tribunal is not satisfied with the First stage there is no requirement to move onto the second stage of the test, namely the appropriateness of the decision.

In this appeal the Tribunal is satisfied that the First Stage has not been established and accordingly is satisfied that the Authority has not established Schedule 2 Paragraph 3(i) (f) (i)-(iv) applies.

The Tribunal need not thereafter consider the appropriateness of the decision to refuse the Placing Request, since we are not satisfied that grounds of refusal do exist specified within paragraph 3(1) of schedule 2 of the 2004 Act.

Where the Tribunal must have regard to the second stage, the Tribunal is required to exercise its discretion and determine whether, in all the circumstances, it is still appropriate to confirm the decision of the Authority. This second stage is an additional, distinct safeguarding analysis of the Authority's by the Tribunal.

It follows that even if the Tribunal is satisfied that the Authority has established grounds for refusal of the Placing Request, the Tribunal must effectively stand back, consider the whole facts and circumstances and then come to a considered view whether it *still* remains appropriate to confirm the decision of the Authority.

Whilst the Tribunal is respectful of the wishes of the Appellant and The child, we must have regard to all the evidence presented to us.

Having regard to the various strands of evidence taken cumulatively, the Tribunal is satisfied that The child's additional support needs can no longer be met at School B.

The Tribunal is satisfied that it is reasonable to incur the cost of a placement for The child at School A as the Tribunal does not consider School B can make provision for The child's additional support needs.

Throughout our deliberations, the Tribunal never lost sight of the fact that The child has attended School A on several occasions with no reported difficulties. She is reported as being happy and comfortable during her time there. She visited on six occasions. The child expressed a strong desire and preference to attend School A.

Witness C and Witness D supported a placement at School A.

The Tribunal require to consider many issues in coming to their final decision. Listening to the views of The child and the appellant, whilst of importance, is only part of the overall evidence the Tribunal must consider in their final deliberations. The Tribunal had careful regard to the evidence of Witness D who supported the placement at School A. The Tribunal found her evidence reliable and credible. We found her evidence highly persuasive. When looking at The child's additional support needs the Tribunal accept the need to look at these needs in a holistic way. The Tribunal had careful regard to the SHANARRI Indicators. The Tribunal recognise that for The child, her social and mental health issues are very important and must be properly addressed.

Consideration of Witness A's Evidence

Witness A stated in her Report that 'the management of student anxiety is a common issue for schools and their link educational psychologists to address'. Witness A also stated that a 'further change for The child at this stage in her educational career would be highly detrimental to The child both academically and for her emotional wellbeing'. She went on to say that 'The child needs stability and consolidation of her care and education; any further change is certainly not in her best interests'. Witness A argued therein that The child needs to be supported and reassured at School B rather than making a further move. She further argued that 'a move to a smaller school with an inevitably more limited social peer group would impact significantly on her need to learn to make functional social relationships'.

Witness A stated that The child has effectively managed most of her third year. She stated that she was contacted by the school as The child was saying she was unhappy. This was not the first time The child had said that and the school made adjustments. Witness A stated that she felt it important that young people become resilient and that resilience is needed in life when difficult situations are faced. Witness A reflected upon her twenty years of experience of gradually exposing young people with support to the source of their anxiety. In essence, Witness A was of the opinion that The child's anxiety could be resolved whilst a pupil at School B. Witness A highlighted The child's attachment issues. She spoke of the strong relationship The child

had developed with Witness B. Witness A was very clearly of the view that to remove The child from that relationship would be detrimental to The child and that a move to School A would require The child to start attachment-forming all over again.

Witness A accepted that The child was now on a reduced timetable with a Flexible Package in place. She accepted that in fourth year The child was not attending any mainstream classes. The child exclusively attends the Base on the days she attends. Witness A indicated she was 'absolutely fine' about this and that she was confident it would not stay like that for The child.

Witness A spoke of the possibility of The child progressing to further/higher education in the future. She stated that if The child was to remain at School B and enter fifth year, whilst there would be bumps along the way, School B would be able to manage the situation. The child had, in her opinion, demonstrated that she could manage her third year and things should improve in senior years as the other pupils are more mature because they are studying subjects they are more interested in.

In respect of The child attending School A Witness A expressed reservations. She was concerned that The child would discover challenges there and face a psychological impact. She also expressed concern about the placement being residential and the impact of The child not being with her grandmother every evening.

The Tribunal noted The child's recent engagement with her Befriender. The positive experience was endorsed to the Tribunal by Witness A and the Appellant. School B arranged for this resource for The child.

There is also an Inclusion Support Worker in place. Witness A stated that both roles would help to encourage community links.

Reflecting on The child's potential, Witness A stated that in her view, looking at the subjects The child was studying, she was doing well and making progress.

Witness A did not consider that sensory issues were a huge factor for The child at School B. She was however clearly of the opinion that peer relationships were a big problem for The child.

Witness A stated that if it were not for the pending Tribunal she thought that The child would be 'further down the road' and she might even be back in class.

Witness A emphasised on a number of occasions in her evidence that she was independent in her professional role. She was therefore satisfied that School B has all the appropriate structures and flexibility in place for The child.

Consideration of Witness B's Evidence

Turning to the evidence of Witness B it was very apparent to the Tribunal that both The child and her grandmother thought very highly of Witness B. It was reassuring for the Tribunal members to hear The child talk so positively about Witness B. The Tribunal noted that The child had envisaged how things might be if she were to leave School B. The child indicated that she would like to keep in contact with Witness B - a view Witness B did not rule out.

Witness B stated, like Witness A, that third year was a difficult year for pupils and that in the upper senior years there was more acceptance of other pupils. She stated that The child got through her third year and that things can only get better for The child. The Tribunal formed the view that, on balance, things had not got better for The child in her fourth year at School B.

Witness B spoke in detail of the school constantly seeking to be flexible for The child indicating that if The child's needs change then the provision would change too. Witness B was of the opinion that thus far School B had been able to resolve any situation presented to them in respect of The child. She highlighted that The child's time at School B had been the longest time she had spent at one school. Witness B was very keen to sustain this and for The child to stay at School B.

Witness B did not consider The child's autism was a barrier to learning preferring to see it as a difficulty. She stated that The child undoubtedly had

difficulties with School B as a school with a large number of pupils in attendance.

Witness B thought that The child would feel a sense of failure on her part if she were to leave School B reflecting on her time there as yet another school which had not worked out. The Tribunal observe that at no time did they sense from their private meeting with The child that she would regard leaving School B as failure on her part. She was excited about the possibility of moving. She told us that she felt as if she belonged there and that her journey thus far has brought her to School A.

Witness B's concerns about The child feeling a failure did not materialise in any form in our discussions with The child. The child's whole presentation markedly transformed when she spoke of her time at School A. She smiled. She looked directly at the Tribunal members when she started to speak about her time at School A. She was enthusiastic and happy sharing with us her experiences at School A.

The Tribunal members did not think The child, or her evidence, was contrived or false. We felt she was being honest and open with us.

She clearly appreciated everything Witness B has done for her.

The child has no friends at School B. She talked to us about the friends she considers she has already made at School A.

She has spoken positively to others about these new friends.

She continues to be in contact with some of the children she met whilst attending School A.

Witness A and Witness B both highlighted how important peer relationships are for The child. The child was unable to talk to us about having friends at School B.

Interestingly, Witness B stated that in her opinion The child had chosen not to have a peer group as she had shown she was capable of forming friendships. The Tribunal carefully considered this view having regard to Witness D's evidence. We preferred the professional opinion of Witness D who did not think that The child, due to her diagnosis of ASD, can form friendships with neurotypical young people. Witness D further stated that The child is effectively set up to fail as she stands out from a group of neurotypical peers. This does not produce a successful learning experience for The child.

Witness D was very clear that the diagnosis of ASD is The child's barrier to learning and that gradual exposure to anxiety causing stimuli would be more likely to be effective where the anxiety is not secondary to an underlying ASD diagnosis.

The Tribunal considered the evidence of Witness B. She too praised the achievements of The child thus far whilst attending School B. She highlighted the attachments and relationships already made at School B as being crucial. She indicated it would be unwise to sever them 'at this crucial stage of education'.

The Tribunal had regard to the evidence provided about the suitability of School B for The child. We noted the various links School B and School A have with other educational establishments. If The child wished to attend College or University it was argued that being exposed to a larger range of young people at School B would better prepare her for that. It was argued that School B would be better placed to stretch The child academically and furthermore that the curriculum choice at School A was more limited. The Respondent also argued that by allowing The child to remain at School B she would be able to stay at home, reside with the appellant and have her support.

Witness B argued that some needs would not be met at School A. She argued that The child would not be able to access a wide socially able peer group. Witness B stated that School B was better placed to prepare The child for life beyond school.

Consideration of Witness C's Evidence

The Tribunal heard evidence from the Head of School A, Witness C. His school has a role of 24 pupils, 2 of whom are girls. The Tribunal note that whilst the school may not have a subject teacher for a subject they would do whatever they could to provide for The child.

Witness C provided the Tribunal with feedback of the schools professional assessment of The child and how she had settled into School A during her time there. We also heard from him about The child's significant achievement

of performing live in a school production having been cast in an important speaking role at a very late stage. This was a major achievement for The child. The Tribunal note the view of The child about her time at School A. We noted from her grand-mother how physically and emotionally different The child was after attending taster sessions at School A. It was like a different person. The child also shared with Witness B positive comments about her time at School A. Witness B accepted that The child enjoyed her time at School A and how successful The child was in the school production there. The child no longer attends the drama classes at School B.

Consideration of The Appellant's Evidence

The Appellant struck the Tribunal as very caring who would not do anything to jeopardise The child's future. The Appellant believes that The child is now able to leave home and attend School A.

The Appellant, while describing School B as a wonderful school, believes that The child is unable to access what they have to offer. The school have tried everything possible but The child is unable, due to her complex additional support needs, to access what the school offers.

The Appellant spoke of The child's sensory issues within School B. She welcomed the idea of The child being in a smaller school with small class sizes. She indicated that The child would always have difficulties with peer integration and that she would need support for 'years to come'.

The Tribunal note that the Respondent's submissions state that the Appellant failed to present contrary evidence from an Educational Psychologist.

The evidence of Witness A (and Witness B) must be taken in tandem with all the evidence presented to the Tribunal, especially the professional medical evidence of an experienced mental health practitioner, namely a Consultant Child and Adolescent Psychiatrist, Witness D, who is currently treating The child.

The Tribunal was invited by the Authority to note that Witness D, as a health professional, is not an educational expert. This seems an attempt to possibly deflect the Tribunal away from the relevance and weight the Tribunal should

attach to the evidence of Witness D. Indeed the Authority's written submission invites the Tribunal to treat Witness D's evidence with caution.

If Witness A and Witness B are to be classified as educational experts it follows that they are not to be classified as healthcare experts.

The Tribunal observe that the Respondent failed to present contrary evidence from a Consultant Child and Adolescent Psychiatrist.

Consideration of Witness D's Evidence

Witness D stated that The child was referred to her by colleagues. Her role was to assess The child's mental state.

The Tribunal found the evidence of Witness D highly compelling and of direct relevance to the core issues in this Appeal. We do not accept that the evidence of Witness D is any less important than the evidence of Witness A or Witness B. Witness D provided detailed oral evidence to the Tribunal.

The Authority's submitted that Witness D's involvement with The child had been rather limited. The Tribunal do not accept this criticism. The Tribunal is satisfied that Witness D had the necessary professional knowledge and understanding about her patient to give professional opinion evidence to the Tribunal.

In our opinion, Witness D's evidence was a highly relevant and persuasive witness when assessing the suitability of the continuation of The child's placement at School B and also the appropriateness of the Authority's decision to refuse the Placing Request for School A.

The Tribunal consider that the Authority's attempts to discredit Witness D's evidence were without foundation. The Authority did not seek to lodge any contrary evidence from a Child and Adolescent Psychiatrist. The Authority was allowed an opportunity to further consider Witness D's letter when it was lodged shortly before a Conference Call. The Convener arranged for a further Conference Call to allow the Respondent further time to consider their position and what action they may wish to take in respect of the medical opinion of Witness D. The Authority did not apply for an adjournment of the

hearing and did not seek to lodge any additional medical evidence. Neither party elected to call Witness D to give evidence. The Tribunal requested the witness to attend and give evidence on a voluntary basis.

The Authority challenged Witness D's letter through the evidence of their witnesses.

In order for the Tribunal to fairly assess the evidence of Witness D we took the view that it was necessary to call Witness D to give evidence. This would allow parties to fully explore Witness D's evidence further. It was important for Witness D to be given an opportunity to rebut any potential criticism of her evidence as a Child and Adolescent Psychiatrist. It also afforded the Tribunal members the opportunity to carefully explore the evidence of Witness D.

Witness D believes that there is a very clear connection with The child's levels of anxiety at School B going up and her mood going down. Witness D stated that The child's ASD and her resulting difficulties with communication and social interaction makes it difficult for The child to achieve her educational potential as the level of anxiety directly impacts upon The child and prevents her from being able to attend mainstream classes.

Witness D stated that The child's inability to establish good peer relationships at School B will invariably increase The child's anxiety and that this will in turn affect her ability to attend School B and access learning.

Witness D understands that due to The child's ASD and her accompanying anxiety, The child is unable to spend time with socially able peers. Witness D formed the impression that being at School B is increasing The child's anxiety which will adversely impact upon her educational attainment.

Witness D was clear that whilst The child is wishing to attend School A and leave School B, she is not asking for a move to avoid education but 'to enhance her educational opportunities'.

Witness D has many years of experience directly working with young people on the Autistic Spectrum. She stated in her letter that those young people often mature socially much later and that some never achieve a level of social comfort in the company of others. She further stated that 'Self-esteem is made up partly of gaining confidence through achievements - socially, educationally and skill wise'. Commenting on The child she stated that 'As

The child clearly experiences a deficit in her social skills she can gain confidence through education.’ Witness D commenting on the social school environment stated that this ‘will need to support her poor social ability. In placing [The child] with other young people with additional support needs she will be able to succeed in her educational goals as well as her social skills as the social goals will be differently tailored to her ability and she can practice social interaction with young people who also struggle’.

Witness D concluded that ‘This is a realistic and achievable goal for The child.’

In her letter Witness D highlighted that in her experience, many young people on the Autistic Spectrum ‘struggle with mainstream school environment and unfortunately often leave school much earlier and with fewer achievements than they are capable of’.

Witness D addressed the importance of sensory issues for The child. Sensory input at school would include things like the school bell, chatter, and people banging into you in class/in the corridors. This would all result in increased arousal for The child which would result in increased anxiety with a reduction in the level of The child’s functioning. This would reduce The child’s ability to concentrate, negotiate, respond and communicate. Witness D stated that even for The child to negotiate the space around the school (corridors, classes) would increase her level of anxiety which would result in a reduction in the level of her ability to function. Witness D has prescribed medication to improve low mood and manage The child’s significant anxiety levels.

Witness D stated that The child’s current placement is interfering with The child’s ability to study and learn. Witness D stated that she had no vested interest in the outcome of the case and that many young people with ASD successfully access mainstream education. She was of the opinion however that The child is unable to access the provision within School B.

Witness D indicated that in her opinion The child was being honest with her whenever they met. Her opinion is that The child has a real difficulty with sensory stimuli.

Witness D stated that The child appeared to have no peer contact and, whilst she may enjoy limited teacher contact, she was not accessing social learning. Witness D was invited to comment on the effect of The child moving to School A. She considered this would be 'very good for her'. She stated that such a move would positively impact on The child's mental health. She further stated that she would hope to revisit the need for medication.

Witness D recounted a patient who moved to School A resulting in a positive impact in that person's presentation. She spoke in general about similar young people who move to schools which are more autism friendly.

Witness D stated that The child's social learning will increase if she can access a peer group she is comfortable with. She stated that in School B The child has no relationships with socially able peers or a peer group The child is comfortable with. Witness D stated that The child cannot access socially able peers due to her social and communication difficulties.

Not having a peer group will impact upon The child's ability to interact, it will increase her anxiety levels which will reduce her ability to access social learning.

Witness D stated that The child's difficulties do not match the provision at School B. The child requires to access learning in a special environment so she can access education opportunities. The child is currently not able to access social learning opportunities at School B. Witness D described The child as a 'square peg in a round hole'. Witness D stated if The child continued to attend School B this would not be her optimal learning environment. The child's ASD keeps her from accessing all the education opportunities she needs including social learning opportunities.

The child finds herself isolated at such a large school. Witness D stated that The child knows that she is different but if she were in a group of other people who are different she would not consider herself to be different. Witness D believes that social learning is potentially The child's greatest hurdle. She stated that by improving The child's social communication difficulties this will improve her ability to access education.

The Tribunal note that Witness D had some knowledge of both schools as she has visited them previously. She confirmed that she had not visited the schools recently and certainly not in respect of The child.

The Tribunal accept that Witness D has considerable experience with young people with The child's profile. She has an awareness of education and ASD. She told us of her extensive work and experience as part of the ASD Assessment Pathway. She has participated in this role since 2006. She sits twice monthly. She is part of a multi-disciplinary team who work together, collating information, sharing opinions and making informed decisions about individual placements.

The Tribunal note that Respondent Representative challenged Witness D's evidence.

In response Witness D stated that she felt able to comment on The child in light of her extensive work with the range of young people she sees. She stated that many young people with autism manage mainstream education but that the ones who come to her struggle with low mood, social pressures and anxiety which all go hand in hand. Witness D stated that it would be unfair to suggest either that The child was deliberating presenting herself so that she could get her way and move to School A. The child has a considerable level of anxiety in her life and Witness D stated that it would be a 'big accusation' to suggest that her symptoms are 'put on' by complying with medication and seeing a psychiatrist. The child is currently prescribed a reasonably high dose of anti-depressant medication (Sertraline).

Having regard to The child's mental health and her levels of anxiety, Witness D stated that if The child was to remain at School B she believed The child might not stay there and continue her education as she would not be able to access social learning. Witness D stated that she is completely certain that The child would be able to enjoy meaningful social learning experiences at School A and that this would have a positive impact on The child's educational achievements. Witness D said that The child's access to social and academic learning goes hand in hand. She stated that for The child

academic learning would not be possible if there was no social learning. Access to both would result in an increase in The child's self esteem, a reduction in arousal and anxiety levels, increased motivation and concentration and finally an increase in The child's mood.

Witness D stated that whilst the educational opportunities are available at School B, The child cannot access them.

Witness D revisited in her evidence why she felt equipped to come to her views about The child. She referred to her professional role as a Child and Adolescent Psychiatrist, her extensive experience with young people with autism, her extensive multi-agency working as part of the ASD Assessment Pathway, her detailed involvement with The child and her grandmother and her understanding that The child has no access to social learning or to peers at School B. She acknowledges the fact that the school have done their very best to put something in place to help and support The child but her ASD prevents her from being able to access what is available at School B. Witness D confirmed that she was well aware of The child's past history. The child is unable to access talking treatment therapies which has resulted in prescribing medication as the only other therapeutic option for The child.

In the opinion of Witness D, The child will be unable to access education at School B due to The child's anxiety and sensory issues. The child has attended anxiety management groups and is unable to access all the techniques learned. The Tribunal accept that Witness D knows her patient well and her evidence is purely based on her professional judgement of The child.

Witness D was very clear that it was not her opinion that everyone with autism should attend somewhere like School A. She stated that each placement needs to be individually looked at, assessing the individual and their needs. Reflecting on this she stated that 'there are plenty of children in mainstream - this is just about The child'. The Tribunal found Witness D to be independent,

unbiased, measured, open to challenge, reliable and credible as a witness. She was in full support of The child moving to School A. Witness D indicated that she would continue to monitor The child if she were to go to School A or remain at School B.

The Tribunal considered Witness D's evidence to be of critical importance especially when considering whether School B is able at this stage to deliver for The child and whether School B, with its physical setting and large school role, continues to be appropriate for The child with her multiple and complex needs. The Tribunal found Witness D's evidence highly persuasive. To reject or ignore the professional medical opinion evidence of Witness D would, in the opinion of the Tribunal, be a travesty for The child when assessed against all the other evidence presented to the Tribunal.

The Tribunal wish to record that we were very impressed by School B and in particular the dedication and commitment of Witness B. We believe the placement at School B would have failed earlier without the special bond between Witness B and The child. School B has done everything possible to help support The child and her placement there.

We concluded that it is no longer appropriate for The child to remain at School B as they are unable to provide for the additional support needs of The child primarily because The child is unable to access the provision. In our deliberations we considered the suitability and cost of the respective schools before us.

The child deserves the opportunity to go to School A. No one can predict the future but The child has great potential. This is recognised universally by everyone who knows The child. She has realistic aspirations for the future and seeks to become a productive and valued member of society.

In this case the Tribunal is not satisfied that the First Stage has been established and the Tribunal do not require to separately consider the appropriateness of the Authority's decision. We have however offered our

wider thinking of the appropriateness of the Authority's decision having regard to the evidence presented.

In the event the Tribunal accepted the First Stage had been satisfied, the Tribunal unanimously concluded that the decision is not appropriate.

We concluded that School B is unable to provide a setting which will allow The child to overcome her barriers to learning and achieve her potential. The Tribunal was mindful of the duty of the Authority to secure that The child's education is directed to the development of her personality, talents and mental and physical abilities to her fullest potential. The child is socially isolated and does not mix with her peers at School B. It would appear that The child has made friends and maintained relationships with young people she met at School A. This is a significant step forward for The child. Witness A stated that The child requires access to a range of socially able peers in order to practice her developing skills and to learn from more socially appropriate role models. The Tribunal concluded that School A is better placed to provide an appropriate setting for The child.

Whilst we carefully considered all of the evidence presented by Respondent Representative on behalf of the Authority, including the testimony of Witness A and Witness B, the Tribunal, having regard to all of the evidence presented to us, consider it is appropriate to place The child at School A at this time.

By way of commentary, the Tribunal do not consider it would be appropriate to return The child to School B. There is compelling evidence, in the opinion of the Tribunal, that The child is unable to function within the physical setting of School B. The child is unable to cope with all the challenges such a large school brings for her.

Although the Tribunal overturn the Authority's decision refusing the Placing Request by The Appellant for School A, we consider it appropriate to pay tribute to the significant efforts made by School B to support The child, her additional support needs and her education.

The Tribunal do not seek to make any criticism of School B.

The child is unable to access the excellent opportunities and provision School B provide. The Tribunal believe that The child will be able to better access her education at School A.

School A is ASD specific with staff who are highly experienced and focussed on addressing the individual's ASD.

We have formed the view that School A is the more appropriate school placement for The child.

School B has excellent provision in terms of curriculum for children who are able to access their curriculum provision. However, due to The child's social communication and anxiety difficulties, she is not able to properly access the curriculum on offer and is therefore not able to achieve her full potential.

It is critical at this stage of The child's education that she is placed in suitable provision. The Tribunal unanimously concluded that School A is the correct placement for The child.

The Tribunal in terms of Section 19(4A)(b) overturns the decision of the Authority and requires the Authority to place The child in School A with immediate effect.

The Tribunal thank The Appellant for her attendance throughout every hearing and to The child for meeting with the Tribunal members.

The Tribunal thank all of the witnesses for the evidence presented.

Finally we express our appreciation to the representatives, Appellant's representative and Respondent Representative (and the supporter) for their assistance throughout the case and for the consistent professionalism and courtesy they demonstrated at all times.