

## DECISION OF THE TRIBUNAL

---

Gender: Male

Aged: 4

Type of Reference: Placing Request

---

### 1. Reference

In June 2016 the Appellant lodged a reference under section 18(3)(da) of the Education (Additional Support for Learning) (Scotland) Act 2004, against a decision of the Education Authority (“the Authority”).

This reference is in respect of the decision issued by the Authority dated 29<sup>th</sup> April 2016 where the Authority refused a placing request made by the Appellant under paragraph 3(1)(f) of Schedule 2 of the Act, for her son, to attend the requested school, School A, (“School A”) as a Primary 1 pupil.

### 2. The Decision

The Reference is allowed. The Tribunal upholds the appeal and overturns the decision of the Authority dated 29<sup>th</sup> April 2016 and requires the Authority to place the child in the school specified in the placing request all in terms of section 19 (4A) (b) of the Education (Additional Support for Learning) (Scotland) Act 2004. This decision was unanimous.

### 3. Preliminary Issues

There was a case conference held by telephone on 26<sup>th</sup> September where a number of procedural matters were discussed and agreed by parties. There was also a discussion between parties and the Convener followed by agreement by all parties that due to the child’s tender years and non-verbal communication, no further steps were appropriate or available to the Tribunal or anyone else to further secure the child’s views.

Late evidence was received in this case. The Tribunal sought the views of both parties in this regard and there were no objections. In view of the nature of the late evidence and there being no objection the Tribunal allowed it to be lodged in terms of Rule 34.

#### **4. Evidence:**

The Tribunal had before it a comprehensive bundle of evidence together with all the late evidence. This evidence is produced in the bundle numbered T1-T22, A1-A288 and R1-R76.

Oral evidence was taken from the witnesses over two days of evidence on the 7<sup>th</sup> and 8<sup>th</sup> November 2016.

The Tribunal also considered both party's detailed case statements and final written submissions which were lodged with the Tribunal on 18<sup>th</sup> November 2016. The Tribunal extends its thanks to party's representatives in the careful preparation of these sets of submissions which greatly assisted the Tribunal in its deliberations.

The Tribunal deliberated on the 23<sup>rd</sup> November 2016 and issued a summary decision on 25<sup>th</sup> November 2016.

Oral evidence for the Authority was taken from:  
Witness A, Witness B and Witness C.

Oral evidence for the Appellant was taken from:  
The Appellant, Witness D and Witness E ( Witness D and Witness E gave their evidence over the phone).

There were no significant issues relating to the credibility or reliability of the witnesses who gave oral evidence during the hearing. The case rests on an interpretation of this oral evidence, the written evidence and of the application of this evidence to the relevant statutory tests stated above. We were satisfied that we had sufficient evidence upon which to base our decision.

Both schools have a place currently for the child and it was the view of the professionals speaking on behalf of each provision that they could meet the respective needs of the child.

## **2. Findings of Fact**

In coming to our decision we found the following facts established.

- 1) The child is a four year old boy with a rare genetic disorder which has caused delay in his gross motor skills, fine motor skills and speech. The child has a learning disability and developmental delays. The

disorder has caused further physical complications for the child including low muscle tone, poor hand eye coordination, difficulties swallowing and gastroesophageal reflux. The child is doubly incontinent and relies on supervision and assistance with all aspects of his daily living. The child has additional support needs within the definition of section 1 of the Education ( Additional Support for Learning Act 2004 (the 2004 Act

- 2) The child requires a variety of specialist equipment to aid his physical mobility including a walker, a standing frame, leg splints, a corner floor seat and a supportive upright chair. The child requires to be peg fed at night. The child can be spoon fed certain foods under very close adult supervision due to a tendency for him to fill his mouth with food. The child requires regular changes of position throughout the day to assist in maintaining his muscle range. The child experiences tightness in his hamstrings and requires them to be stretched by either a physiotherapist or someone who has been suitably trained to do so. The child is able to crawl around the floor and is able to pull himself up on furniture. The child has very limited communication skills. The child is non-verbal and is often passive in his expression. It can be difficult for those working with the child to pick up his subtle social cues. The child is reliant on others who are very familiar with him to pick up on his needs and emotions as these are not often evident even from his facial expressions. The child requires a sensory based curriculum to build on his touching, moving, manipulation and visual skills.
- 3) A high level of support is required to assist the child accessing the curriculum. The child has had a Co-ordinated Support Plan in place in terms of the 2004 Act since January 2016. This is subject to review by the Authority in January of 2017
- 4) The Appellant is the mother of the child. The child resides with the Appellant, his father and two older siblings in the family home. The Appellant works as a child minder. The child is currently being home schooled by the Appellant as she is of the view that the Authority are unable to meet the needs of the child should he be placed in School B. The Authority offered to place the child within School B in the interim, pending the outcome of this appeal. The Appellant refused to do so.
- 5) The child attended a mainstream nursery under the control of the Authority on a part-time basis for around 9.5 hours per week from the age of 2 until June 2016. The child was provided with 7.5 hours of additional support to access learning activities. Said supports were from a number of health and educational professionals including nursery and school staff, speech and language therapy, physiotherapy, occupational therapy, educational psychology and health visitors.

- 6) Over the duration of the child's pre-school nursery year a number of meetings attended by a range of professionals involved in the child's health, care and education took place to consider the child's ongoing educational needs. These meetings considered, amongst other things, the provision of an appropriate primary school placement for the child and the transitional arrangements that would take place for such a placement. The Authority completed an assessment from Witness A which recommended that the child's needs could be met within ( Page R 6 of 73) one of the Authority's Additional Support for Learning Wings, of which there were three. Following a multi-disciplinary meeting held on 9<sup>th</sup> November 2015, it was agreed by all parties that a referral would be made to the Pupil Support Resources Group (PSRG) requesting that the child be considered for a place at one of the Authority's Support for Learning Wings, in line with the recommendations of Witness A.
  
- 7) On the 28<sup>th</sup> January the Authority wrote to the Appellant to confirm that it was the view of the PSRG that the child's needs could be most appropriately met in one of the Authority's specialist facilities. The Authority went on to advise the Appellant that they were in the process of reviewing where best to place the child and listed three possible school provisions which may be appropriate. The Authority were at that time in the process of expanding specialist educational provision having identified that there was likely to be a shortfall of such provision for the new term in August 2016. The Authority advised the Appellants that plans to expand said provision had been approved by the Authority Council however no specific provision was yet identified for the child. The Authority were unable to offer the child a place in a specific provision as there was not one available.
  
- 8) The Appellant meantime lodged a placing request with the Authority dated 7<sup>th</sup> March 2016. This request sought to have the child placed in School A. The child was assessed by specialist educational and therapy staff at the School A and was subsequently offered a place to commence in August 2016. By letter on 29<sup>th</sup> April the Appellant was advised by the Authority that the placing request had been refused on the basis of the reasons stated in this Reference.
  
- 9) On or around the end of April 2016, the Authority offered the child a place at School B. This provision is within an annexe to an existing additional support needs high school. The provision is a new one set within an existing school. The Appellant attended briefing sessions on the provision at School B on 2 occasions. The Authority subsequently arranged a meeting to enable the Appellant to discuss transitional plans for the child to attend School B. The Appellant did not attend and indicated that she did not wish to be involved in any further transitional planning pending the outcome of the Tribunal. The child has been

home schooled since the beginning of August. It is the position of the Appellant that the Authority provision ( School B) will not sufficiently meet the needs of her son.

(11) Witness A is an Educational Psychologist employed by the Authority. Witness A was responsible, amongst other things, for providing advice to parents, the education service and social work professionals on the additional support needs of children and young people. She had extensive experience in working with children with complex needs such as the child and the Tribunal accepted her evidence to be credible and reliable. Witness A completed an assessment of the child which was based mainly on the reports of other professionals working with the child, for the purposes of identifying what primary school provision would best meet the child's needs.

(12) Witness B was principally employed by the Authority as Depute Head of a primary school for children with severe and complex additional support needs. She is also chair of the PRSG. The Tribunal found Witness B to be a credible and reliable witness. Witness B was of the opinion that the school would be able to fully meet the needs of the child.

(13) There had been a delay on the part of the Authority in informing parents of children with severe and complex needs, including the Appellant , of the specific provision where such children would be attending (as stated in paragraph 5 above). School B was identified by the Authority as being suitable for the child. School B is a new unit on an existing campus. School B is a specialist provision catering for children with severe and complex needs. The Unit was opened with a degree of speed due to the increased demand upon the Authority for such places. The Authority has in place arrangements with the local Health Board that enables regular access to health professionals such as occupational therapy, physiotherapy and speech and language therapy. There is currently a "Service Level Agreement" with the local Health Board which requires NHS physiotherapy staff to attend School B. Said agreement provides for one half time physiotherapist and a one half time physiotherapists assistant to work across the whole school including School B. School B is staffed by existing experienced teaching and learning support staff who worked across the Authority prior to School B opening with children such as the child.

(14) Witness C is an Additional Support for Learning Advisor for the Authority and has a number of roles within the Authority working with children and young people, their schools and carers to ensure that education programmes are matched to pupils needs. Witness C was experienced in the area of special educational needs provision and the Tribunal accepted that she was a credible and reliable witness. Witness C was involved in expanding provision of specialist schools within the Authority. The Authority apologized to parents

of children including the Appellant about said delay. Witness C was of the opinion that the child's needs could be met within School B

(15) Witness D was professional lead for education at School A. She was qualified and experienced both in teaching and nursing and had significant experience working with children with severe and complex needs such as the child. Witness D, together with Witness E completed an assessment of the child's needs which was based on observations of the child at School B and the history given by the Appellant to her. She thereafter considered the bundle before the Tribunal prior to giving her oral evidence to the hearing and confirmed that her opinion remained as per her initial assessment. The Tribunal was satisfied that her evidence was credible and reliable.

(16) Witness E is employed as a physiotherapist in School A. She holds a number of relevant qualifications and is experienced in working with children such as the child with both neurological and musculoskeletal conditions in a range of settings. Witness E completed the assessment of the child together with Witness D. Witness E in her evidence was credible and reliable.

(17) School A is an independent school combining education and therapy for children and young people affected by neurological conditions. The school is grant-aided and receives further funding from the Scottish Government. School A provides a holistic and integrated approach to learning. The school provides education and therapy to children affected by disorders of movement, activity limitation, disturbances of sensation, perception, cognition, communication and behaviour, functional abilities, learning difficulties and secondary musculoskeletal problems. The school is staffed by highly skilled and specialist staff including teachers, specialist Speech and Language therapists and Early Years Practitioners. Staff are all directly employed within the school and work together to provide individual programmes of education and therapy. Highly specialist physiotherapists work on a daily basis with the education staff to enhance children's access to learning. The curriculum for each child is individual to each child.

(18) If the child were to attend School A he would receive significant and focused therapeutic input delivered by highly specialist physiotherapists, occupational therapists and speech and language therapists who are on site on a daily basis. School A would use communication assistive technology to benefit the child who is non-verbal in his communication. The child used and engaged with voice output technology at the school during one of his visits. The child smiled and said "hello" with the use of this device by pressing a switch. School A would look to develop the child's speech in a number of ways and the child would have immediate access to this assistive technology to help him vocalise. The therapists at School A are aware of the teaching programme and are able to deliver it at any part of the day as required. School A develops individual education plans for all children who attend. School A can offer a timetable that would be sensory based.

(19) School A has a range of specialist equipment appropriate to the needs of the child and immediately available. The child would benefit from both hydrotherapy and rebound therapy that are both offered and accessible on a daily basis within the school. School A can offer rebound therapy involving the use of a trampoline which will benefit the child. The child will be under the constant supervision if he were to attend School A. The staffing ratio of adults to children in School A is one to one. The specialist physiotherapists are always present in the room when other staff are working with a child on physiotherapy. The school has a current pupil role of 12 comprising of one nursery child, 10 primary child and one secondary child.

(20) School B is an additional support wing of a mainstream primary school. The child will be placed in the annexe to this wing as outlined in paragraph 9. The school is dedicated to educating children with severe and complex needs such as the child. The school provides a sensory curriculum and support to children with said supports determined by both the Child's plan and Co-ordinated Support Plan. Teaching and support staff provide teaching, care and therapies to the children having received training from relevant professionals to do so. The school caters for children with a variety of needs including children with a similar profile to the child including children with developmental delay, physical/mobility needs, health/medical needs, communication and language delay or disorder and autism.

(21) The school provides access to water -based therapies on a timetabled basis in a pool which is shared with an Additional Support Needs High School attached to School B. Staff receive training from relevant professionals to meet the health and mobility needs of the children.

(22) School B is staffed by teachers and learning support staff dedicated to each of the classes within the school. Additional Support for Learning Assistants ("ASL"s) support teachers in the school as well as supporting health care professionals in the provision of certain therapies. Staff are trained to enable children to access specialist equipment such as standing frames and supported seating. School B has dedicated and timetabled slots for children such as the child accessing water-based therapies within the swimming pool of the school building which is attached to the school. There is a staffing ratio of one adult to two children. The child would be placed in a class with four other pupils.

(23) Cost to the Authority of School B:

The Authority stated that the "unit cost" price per child was approximately £18300. It was further submitted by the Authority that the cost of teaching the child should he be placed within School B , actually represents a cost reduction. The argument made by the Authority was that there would be a cost reduction "per child" as no additional resource would require to be funded

by the Authority to support the child's addition to the class and the meeting of his educational needs.

The Tribunal did not consider this unit approach to be helpful. Furthermore, the Tribunal found the submission about cost reduction in this case somewhat confusing. We were invited to accept the approach of Lord Glennie in *SM v Edinburgh City Council* by the Authority whereby the Tribunal in assessing respective cost is to identify the "costs which will actually be incurred if one or the other option is chosen". The Tribunal accepts that this is the correct approach.

The Tribunal accepted that the costs of the child attending School B would be nil. It was clear from the evidence that provision is already available for the child within School B and it is clear that there will be no actual costs incurred if the child were to attend School B.

#### **(24) Costs to the Authority of School A:**

The school fees incurred over an academic year if the child were to be placed within School A would be £25800. The Tribunal was not addressed by either party in relation to transport costs. The Tribunal was aware that the Appellant lived relatively close by to both schools and accordingly the Tribunal took the view that the transport costs would not be likely to represent a significant costs if either or was chosen.

The difference therefore in comparing the cost of educating the child at School A and School B was £258000

#### **(25) Reasons for the Decision**

The Tribunal considered all the evidence and were satisfied that there was sufficient evidence available for the Tribunal to reach a fair decision on the reference.

The Authority refusal to grant the placing request was made in terms of paragraph 3 (1)(f) of Schedule 2 to the 2004 Act. In terms of this ground the Authority may refuse a placing request where the following conditions apply:

- (i) The School A 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 School A,
- (iii) It is not reasonable, having regard to respective suitability and to respective cost ( including any incidental expenses) of the provision for the additional support needs of the child in the School A and in the school referred to in paragraph (ii), to place the child in the School A
- (iv) The authority have offered a place to the child in the school referred to in paragraph (ii)

In terms of section 19 of the 2004 Act the Tribunal may confirm the decision of the Authority to refuse a placing request only where it is satisfied that *all* of the conditions stated in 3(f) (i) –(iv) continue to exist at the date of the Hearing. Having considered whether or not the foregoing grounds continue to exist the Tribunal must then go on to consider whether in all the circumstances it is appropriate to confirm the decision of the Authority.

Parties were in agreement in terms of paragraphs 3(f) (i) and ( iv) accordingly the matters in dispute before the Tribunal were

under para 3(1) (f) (ii) the auth are able to make provision,  
para 3(1) (f) iii) respective costs v respective suitability

and the appropriateness of confirming the decision of the authority.

The disputed grounds before the Tribunal were as follows

**(26) Authority are able to make provision :**

The Act requires that in order to uphold the decision of the Authority, we have to be satisfied that they are able to make provision for the additional support needs of the child in a school other than the requested school. We are satisfied that School B can make such provision.

(27) There was no skilled evidence before the Tribunal to suggest that School B could not meet the needs of the child. The skilled evidence that does exist was to the contrary effect. Each of the witnesses for the Respondent gave clear evidence that in their respective professional opinions School B would be able to meet the child's needs. Both witnesses A and C stated clearly to the Tribunal that if this had not been their professional opinion then they would not have recommended that the child attend School B. Witnesses D and E were also clear that they were unable to comment on whether the child's needs would be met within School B and were only able to speak to the provision within School A.

(28) Much was also made in this reference around staffing ratios within each of the schools. The Appellant stated her concerns about her son's safety should he attend School B due to lower staffing ratios. In particular it was suggested by the Appellant and by her solicitor that the child could be at risk of choking if not under constant supervision. The Tribunal did not accept this submission. The Appellant in her evidence stated that when at home she would often care for the child and a number of other children in her childminding job. There was no evidence before the Tribunal to suggest that there would be any immediate risks to the child's health, safety or welfare should he attend school B . The professional body of evidence before the Tribunal was that children with a variety of severe and complex needs are currently taught within School B and the staff within the unit are very experienced in managing risks and emergencies.

(30) Taking all of the evidence together the Tribunal was satisfied that the Authority was able to make provision for the child's additional support needs in terms of Paragraph 3(1)(f)(ii)

### **Respective Suitability and Respective Costs**

(31) The Tribunal when considering the issue of suitability required to assess of the respective qualities of the provisions from which the child will benefit from each of the two schools. Taking this approach we considered in turn the respective qualities of each of the schools from which the child will benefit.

#### Suitability

(32) The Tribunal directly compared both provisions, comparing the respective qualities of both schools as they relate to the child. The Tribunal had regard to both the evidence and the party's submissions in relation to this comparison. It was clear from the available evidence that both School A and School B would be able to meet the child's additional support needs.

The Tribunal was satisfied however on the evidence before it that there were likely to be more positive advantages to the child if he were to attend school A. In particular the child would have daily access to specialist physiotherapy provision and there was evidence that this would be advantageous to the child's development. The child would be more closely monitored by staff. This would be significantly advantageous to the child as he is passive and non-verbal. Said supervision would often be carried out by highly specialist physiotherapy staff who would collaborate with their education colleagues throughout the day to promote the child's ability to access the curriculum.

#### Costs

(33) The Authority invited the Tribunal to take the approach of Lord Glennie in *SM v City of Edinburgh Council (2006) CSOH 201*. The Tribunal accepts that this is the correct approach and the exercise of the Tribunal in adopting Lord Glennie's reasoning is to

"identify the costs which will actually be incurred if one or the other option is chosen".

This case makes it clear that the measure of the cost differential for the Tribunal is the cost which would actually be incurred if the child were to attend School B compared to the cost incurred if the child were to attend School A. The only relevant costs in this regard are the costs that would be incurred by the Authority to meet the child's additional support needs in School B.

(34) The Authority submissions made reference to there actually being a cost reduction in the cost per child of the additional provision as no additional resource would be required for the child to attend School B. In short, a place was available for the child in a class within School B with no additional cost to the Authority. The Tribunal accepted this. The Tribunal however found the cost reduction argument to be confusing and unhelpful in the circumstances. This approach, to use the words of Lord Glennie, seemed somewhat artificial and was neither relevant or helpful in the circumstances. The test requires the

Tribunal to consider additional cost, not cost reduction to the Authority in terms of cost per child. It is the role of the Tribunal to consider what if any are the additional costs to the Authority of the child attending School B. In this case the Tribunal accepted that these were nil.

(35) The Appellants in their written submissions founded on the failure of the Authority to make mention of travel costs. The Tribunal was aware that there would be travel costs involved in both placements and was further aware that the distances between the child's home and the respective provisions was not vastly different. The Tribunal also considered decision in the case of *C v Edinburgh City Council 2008 SLT 522* where in the absence of any other information, the transport costs can be assumed as similar for both schools. In this circumstance the Tribunal took a "broad brush" approach and reached the view that the travel costs as they might relate to either placement would cancel the other out.

(36) The cost of sending the child to school A would be £25800 for academic year 2016/2017.

(37) The Tribunal, in weighing up the cost element of the test, required to consider the respective suitability. The Tribunal is satisfied that the provision of School A is more suitable to the specific needs of the child than School B. The cost differential is however significant. The Tribunal was satisfied that School B could adequately meet the needs of the child. Given this conclusion the Tribunal accepts that the cost to the Authority would be unreasonable in all of the circumstances. If the cost differential had been marginal, the Tribunal would have difficulty in reaching the same conclusion. What is "reasonable" in terms of costs, must be viewed from the Authority standpoint.

(38) As the Tribunal was satisfied that the grounds for the refusal of the placing request were established by the Authority, the Tribunal was required to consider the second stage of the test in terms of section 19 (4) (a)(ii) we required to consider whether, nonetheless, it is appropriate in all of the circumstances to confirm the Authority's decision to refuse the Appellant's placing request, or whether we should overturn the Authority's decision and place the child in School A.

(39) The Respondents correctly stated in their submissions that the test for appropriateness is very wide. The Tribunal must consider and weigh up all of the evidence before it in making a determination as to whether or not it is appropriate to confirm the Authorities decision.

(40) It was the position of the Authority that the provision offered by the School A was in no way superior to that provided by the Authority. The Tribunal considered this submission insofar as it related to the child. In doing so the Tribunal rejected this submission. It was clear to the Tribunal that whilst both provisions could meet the needs of the child, the evidence before the Tribunal was that the provision offered in school A was in fact superior in its provision with specific reference to the child. The evidence indicated that the

child would benefit from the immediate, daily and collaborative contact between education and specialist therapy staff. Whilst the Authority led evidence around the specific provision of physiotherapy staff 4.5 days a week within School B, there was no evidence around what specific benefit this would give to the child. Evidence was presented from School A around both the availability of School A's physiotherapy provision and the benefits to the child. The Tribunal were left with a clear picture of how staff at school A would work together on a daily basis to benefit the child.

(41) The Tribunal had regard to the Appellant's concerns and anxiety following the delay on the part of the Authority in planning and communicating what specific provision would be offered to the child. Whilst not a critical factor in determining appropriateness, it was clear to the Tribunal that the delays by the Authority in being able to identify where a child with severe and complex needs would be educated would be a legitimate cause of anxiety to a parent in such circumstances. It appeared to the Tribunal that the Appellant had lost faith in the Authority's ability to provide her son with a safe and suitable placement which would be appropriate to his severe and complex needs. The Appellant would likely be left with a real sense that her son would not be in a placement that was the best one for him in all of the circumstances. The Authority accepted in evidence that the Appellant's anxieties around the provision given the delays were reasonable. The Tribunal did not consider that these concerns would be conducive to a positive relationship between the Appellant and the Authority and going forward would be unlikely to benefit the child.

(42) A critical factor in determining appropriateness was the evidence around the use of assistive technology in each provision. The Tribunal was impressed around the use of voice technology at School A. The Tribunal paid particular regard to the evidence around the child's visit to School A where he had actively engaged with voice technology at School A to his enjoyment and benefit during one of his visits to the school. The Tribunal heard evidence that schools within the Authority used technology but there was no evidence around how this related to the child. There was no evidence around how the child would access such technology. The Authority were familiar with the needs of the child but the Tribunal could see no specific mention of the use of such technology for the Child at school B. There was clear evidence of how the use of such technology would be able to be used to benefit the child should he attend School A

(43). The evidence before the Tribunal was that the child was passive and the Tribunal was satisfied that the approach of School A , with the additional benefit of 1 to 1 support would be more likely to promote the independence of the child.

(44) The Tribunal was also satisfied that the additional and immediate provision of both hydrotherapy and rebound therapy would be particularly beneficial to the child. Whilst the Authority evidenced that access to a hydrotherapy pool was available, there was no evidence before the Tribunal in what way this would be used to meet the Child's needs . It was clear that if the

child were to attend School A the foregoing facilities would be used with frequency to improve the child's mobility and promote his independence.

(45) The Appellant in her evidence made clear that when the child was attending the Authority Nursery she was happy with the provision on offer. The Authority in their submissions make reference to this fact and state that the approach employed by the Nursery will be mirrored by School B and that the child had been successful in that environment.

The Tribunal was mindful that primary education is inherently different to nursery education. Moreover, the child attended the nursery on a part-time basis. His primary school placement will likely be full time in nature. The Tribunal rejected the submission therefore that the approach within School B would mirror that of the nursery.

(46) The Tribunal was particularly impressed with the oral evidence of Witnesses D and E. Although they had only met with the child for a relatively short time, the conclusions in their assessment accurately reflected the needs of the child.

(47) The Authority in both submissions and in evidence placed emphasis on the teaching element within School B. The suggestion was that School B had a more dedicated and consistent teaching element which was better placed to meet the child's needs. The child's needs are severe and complex. The child is passive and non-verbal requiring a very high level of adult intervention to pick up on his subtle cues. The Tribunal took the view, based on all of the evidence available to it that these particular features of the child's additional support needs were currently acting as a barrier to him accessing education. In addition the Tribunal noted in evidence that the child has a sensory impairment and his Co-ordinated Support Plan highlighted the importance of a sensory based curriculum. There was no evidence before the Tribunal of the Authority carrying out a sensory assessment or a specific plan around how provision in School B would address this. On the contrary, there was evidence that School A would carry out a sensory profile which would be followed by a multi-sensory approach to developing the child's exploratory play. The Tribunal were presented with clear evidence that School A would be able to provide a curriculum that would uniquely meet the child's sensory profile.

The Tribunal therefore required to consider the appropriateness of confirming the decision of the Authority with these key features in mind. All of the evidence before the Tribunal suggested that the child stood the best chance of overcoming these barriers if he were to attend School A.

(48) The evidence before the Tribunal was very finely balanced. The Tribunal were challenged in determining the test around appropriateness. On one hand, the Authority had worked hard to put suitable provision together designed to meet the needs of children such as the child. The Tribunal was satisfied that if the child were to attend School B he would have access to provision that was both adequate and suitable. The Tribunal was faced however with clear evidence that if the child were to attend school A, his independence would be better promoted. The Tribunal was satisfied that the

collaborative approach between education and therapy was the one that would be most likely to remove barriers to learning for the child and improve his life chances. The Tribunal considered that all of the evidence before it was credible and reliable.

(49) The Tribunal was satisfied that if the child were to attend School A The combined and collaborative approach of the school would enable the child to reach his full potential.

For all of the reasons stated, the appeal is upheld.