



Additional Support Needs

DECISION OF THE TRIBUNAL

Reference

1. This is a placing request reference, lodged with the Tribunal on 18th May 2020. It is made under section 18(1) and section 18(3)(da)(ii) of the Education (Additional Support for Learning)(Scotland) Act 2004 (the 2004 Act). The appellant asks the tribunal to require the respondent to place the child in school A.

Decision

2. The tribunal confirms the decision of the respondent to refuse the placing request, in accordance with section 19(4A)(a) of the 2004 Act. The tribunal therefore does not require the respondent to place the child in school A.

Process

3. A hearing took place over two days. Prior to the hearing a number of case conference calls took place. Directions were issued to regulate the hearing and pre-hearing process. Following the oral hearing, written submissions were directed, with an opportunity for parties to consider each other's submissions in advance of lodging final submissions with the tribunal.
4. A joint minute of agreed facts was prepared by the parties' representatives and this can be found at 049.
5. Before reaching our decision, we considered the oral and written evidence and written submissions. Late documents were accepted on the date of hearing, namely a child's plan dated 31/01/2019, the Review of the Child's Plan dated 27/08/2019 and the Review of the Child's Plan dated 03/10/2019 and an email from the appellant to the respondent containing the child's views. This means that the written evidence we considered (the bundle) consists of 001-126 and the additional documents referred to, together with the submissions of the respective parties.

Findings in fact

General findings

6. The appellant is the mother of the child, who is 11 years old. The child lives with her parents and brother in the family home.
7. The child has been diagnosed with autism spectrum disorder ('ASD') with associated social, emotional and behavioural needs and hyperacusis. She demonstrates anxiety about attending school and a propensity to self-harm. She is currently being assessed for attention deficit disorder. A dyslexia identification is being considered for the child.

The child is a bright and keen learner. The child's greatest barrier to learning is her anxiety.

8. The child currently attends school B, a school under the management of the respondent. She has attended there since October of her primary three year; she commenced her primary seven year in August 2020.
9. The child attends the small group setting at school B which was established in August 2020. This is a school resource, use of this resource is determined by the school. It is suitable for children from primary three to seven. The child attends there throughout her time at school. This small group setting is used by children with additional support needs who attend the mainstream school on a time tabled basis. No other child attends the small group setting throughout their whole day at school.
10. There is an extensive history of failure to meet the child's additional support needs at school B which has had a negative impact on the child's anxiety and her ability to trust those associated with school B.
11. The child struggles with other children behaving in a way that is not compatible with school rules. This is a significant trigger for her anxiety.
12. The child was unable to return to school on a fulltime basis in August 2020 following an unprecedented extended time away from school due to school closures in March 2020. The child returned full time to school on 7th September 2020.
13. The child has a small but solid friendship group at school B. She also participates in a lunch club within the small group setting where games are provided for the children. The child also benefits from a sensory group at school B and has access to a sensory bag and therapy sessions with a therapy dog. The child previously participated in school B's Glee club. This club is not permitted at the present time due to the Covid-19 pandemic.
14. Her secondary placement will be considered by the education placing group in the first instance. No particular provision has been identified by the education authority in respect of the child at the present time. The child will require an enhanced transition process to support her progress to secondary. The educational psychology service will require to be involved.
15. Educational psychology services first became aware of the child in February 2020.

Findings on the child at school B

16. School B is a mainstream primary school. Witness B, head teacher at School B was seconded to her role in August 2019 when the child was in her primary six year. The deputy head teacher of the school also changed around this time. Positive progress has been made in respect of the child's education since this time.
17. There are a number of children at school B with additional support needs that are varied in nature.

18. The child is currently learning in the 'small group setting' within school B. She is attending this provision only; she does not have anytime within the mainstream classroom at the present time. She is the only child that attends the small group setting in this way. The area set aside for the small group setting is intended to be used by a number of children for part of each day to support their additional support needs.
19. The small group setting is not a substitute for education in the mainstream environment. The focus in the small group setting is health and wellbeing with a view to supporting learning out with the small group setting.
20. The small group setting is staffed by a full time equivalent primary qualified teacher and 1.75 full time equivalent advanced pupil support workers. This is overseen by the head teacher, deputy head teacher and principal teacher who is the lead on nurture and wellbeing; all work with the local authority regularly in order to develop this provision.
21. The child presents as a happy and bubbly child at school. She is very articulate and highly engaged with her learning at school. As staff get to know the child they are appreciating that the child masks anxiety and although she may present well she may not be well. The child presents as anxious at home and describes feelings of anxiety to her mum.
22. School are in consultation with the appellant in relation to replacing lighting in the small group setting to ensure this is suitable for the child's needs.
23. The child participated in a project making a video to share details relating to the small group setting with her school.
24. The child enjoys and benefits from one to one teaching support. She benefits from her visual timetable and now and next board. The small group setting is intended to be flexible to react to any difficulties that the child may encounter day to day.
25. The staff at school B who are educating and supporting the child have specialist training and education in educating children with needs similar to those of the child. One of the pupil support assistants has several years' experience of working with children with additional support needs, the other has a particularly beneficial disposition and a personal interest in working with children with ASD.
26. The educational psychologist has observed the child in class at school B, she attended a review meeting in March 2020 and will be further involved with the child in order that she may provide input in relation to secondary school placement.
27. The child is taught age-appropriate social skills at school B including communication, turn taking and playing alongside peers.
28. Communication between staff and the appellant takes place on a regular basis.

General findings on school A

29. School A is a grant aided special school, which offers education, care and therapy to children and young people with ASD, sensory impairment and communication

difficulties and other additional support needs. This is a through school, suitable for children aged five to eighteen.

30. The school was designed with children with hearing difficulties in mind and the environment is particularly sensitive to sensory needs. The school was built in 2008 to accommodate 140 pupils across the campus.
31. School A offers a range of services for children with a wide variety of additional support needs. Children are divided into groups and provided with education in different programmes described as services. It is proposed that the child attend the 'Vibe' service at school A.
32. There are 20 places available at the Vibe service. No other pupils attend the Vibe service at school A at this time. Children and young people, other than this child, identified by school A as suitable to attend the Vibe service are aged 13 years plus. Each of the children identified (other than the child central to this case) have been unable to access full time education for more than two years.
33. The vision for the Vibe service is that some of the children currently accessing 'the Junction' service at school A will access the Vibe service as their main place of education. The main purpose of the Vibe service is to provide a core skills curriculum. A National Qualification in core skills up to National 5 level will be available. The only Higher qualifications that will be available in this service are Mathematics and English.
34. School A has links with CAMHS and occupational therapy. There is a speech and language therapist on the staff. There is no onsite occupational therapist, physiotherapist or educational psychologist. If educational psychologist input is required the child is referred to the local authority educational psychology service.
35. The staff at school A all have specialist training and education in educating children with needs similar to those of the child.
36. The Vibe is for children with neurodiversities who are finding it hard to access a mainstream environment. Class sizes are small with no more than eight children in a classroom. The young people intended for the Vibe currently attend the Junction service a few hours per week. The Junction service is a transitional service for young people who have struggled in mainstream but had an aim to move to college or the workplace.
37. The central issues for children attending the Junction and Vibe services are anxiety and stress.
38. There is a difference between the child's needs and the needs of the young people who attend the Sensational Learning Centre, another of School A's services.
39. The child has visited the campus and has spoken to staff. She wishes to attend school A.
40. The staff are all trained in Crisis and Aggression Limitation Management (CALM), this is a hands on intervention used to support young people with challenging behaviour.

41. School A offers a small group learning environment, a high staff pupil ratio, a visual approach to learning, good access to speech and language therapy, and a person-centred planning approach.

Findings on school A and the child

42. The child has visited school A on one occasion. She is impressed with the school.

43. An individual approach is taken to the delivery of the education in school A, based upon the child's needs. Each child has an individual education plan, containing a curricular plan for each term with a list of targets. No plans particular to the child were presented to the tribunal.

Findings on costs

44. The costs of providing for the additional support needs of the child at School B are unknown. The costs of providing for the additional support needs of the child at School A would be £7500 per year (consisting of the tuition fees at School A). The incidental costs of the child attending school A although variable can be reasonably stated as £7700. The total cost of attendance at school B is £15,200.

Reasons for the Decision

General remarks on the oral evidence

45. We accepted the evidence of witnesses A, B and D as being credible and reliable. We found these witnesses to be open and honest. Where concessions were appropriate, we found that the witnesses were prepared to make these. We benefitted from the provision of witness statements from all of the witnesses.

46. It was difficult to obtain relevant information from witness C. Required information was not provided in her written statement, nor obtained in examination in chief. The witness failed to answer questions in a straightforward manner.

47. It is important to note that although particular parts of evidence is referred to in this part of the decision it is not, nor intended to be a rehearsal of the evidence before the tribunal. We have considered all written and oral evidence together with the parties' submissions in reaching our decision and refer only to what we view as the salient points of dispute between the parties in this part of our decision.

48. It is clear that the appellant loves and cares very deeply for her daughter, and wants what is best for her. We gained the impression that the appellant was honest in all of her evidence. It is clear that there have been extensive difficulties in terms of her needs being met in school in the past the consequences of which remain with both the child and the appellant. The appellant was quite clear that due to the extent of difficulty that the child has experienced in her education thus far and her very high levels of anxiety that she wishes to prioritise the child's mental health over academic achievement. We had a great deal of sympathy with the appellant's position. We were concerned by the content of the advocacy report and evidence we heard regarding the child's views and have taken full account of these. The reasons that the

we did not believe the education at school A was adequate and efficient is detailed below. It is for the tribunal to make a relative comparison of both schools and have concluded that school B is better placed at the current time to meet the child's educational needs.

General remarks on the legal tests

49. Where the parent of a child having additional support needs makes a request to an education authority to place a child in a specified school (school A), it is the duty of the authority to meet the costs of the child attending the specified school unless certain exceptions to this rule can be evidenced by the respondent.
50. We have considered the child's additional support needs in an all-encompassing and 'holistic' way in line with the principles of getting it right for every child with reference to the wellbeing indicators (safe, healthy, achieving, nurtured, active, respected, responsible and included).
51. The appropriate point in time to assess the case is at the date of the hearing. We accept that the onus of establishing the ground of refusal lies with the respondent. We also accept that consideration should be given to the assessment of the child's needs which happened closest to the hearing. We have evidence of such an assessment in the form of class reports, evidence from witness B and email correspondence from the educational psychologist via the respondent's representative dated 24th September 2020.
52. There was no dispute between the parties on the question of whether the child has additional support needs, as defined in section 1 of the 2004 Act.

The ground of refusal: 2004 Act, schedule 2, paragraph 3(1)(f)

53. This is the only ground of refusal relied upon by the respondent. This ground comprises a number of parts, numbered in paragraphs (i)-(iv). The respondent must satisfy us that each of the paragraphs apply to persuade us that the ground of refusal exists. We deal with each in turn.

School A is not a public school: paragraph 3(1)(f)(i)

54. This paragraph requires that the specified school (school A) is not a public school. We are satisfied that this is the case, and this was not disputed. This part of the ground of refusal is met.

Provision for the child's needs at school B: paragraph 3(1)(f)(ii)

55. The application of the condition in this paragraph is disputed.
56. There have been extensive failures to meet the child's needs by the respondent in the past. Witness B made significant concessions in this respect so far as was within her knowledge. Extensive efforts have been made particularly since August 2020 to meet the child's additional support needs. As detailed above the law requires the tribunal to consider the respective provisions as at the date of hearing. There was no skilled

evidence to the effect that school B could not meet the needs of the child. The skilled evidence which does exist is to the contrary effect.

57. We were impressed by witness B who is an experienced head teacher with particular knowledge and experience relating to additional support needs; having been a head teacher at a school with a special school incorporated. We understand from witness B that the deputy head teacher also has similar experience and specialist knowledge that is being imparted to staff throughout school B.
58. Substantive failures in school B relate to matters predating March 2020. There were some difficulties in relation to organisation and finalising details in relation to this small group setting provision which was new as at August 2020. For example, staff were not all appointed and settled to their roles at the start of term. Whereas we appreciate how unsettling this is for the child and how disappointing it is for the appellant to experience further disappointment against a background of previous failures nothing has occurred since August 2020 that is insurmountable. We understand that these difficulties have been rectified and that the small group setting is currently adequately staffed.
59. Appropriate planning is in place for the child and can be found at 092-097. The child has a visual timetable, regular adult contact, a toilet area that is separate to that used by the majority of children, she belongs to a nurture group and benefits from therapy dog sessions.
60. We are concerned that the child spends the majority of her time in the small group setting without an effective peer group. We were encouraged by witness B's approach to moving forward with some integration to include the child with school activity in a way that's manageable for her. We are also encouraged by the presence of a suitable peer group within the school and whom the child already knows. A suitable peer group is necessary for cooperative learning, sense of wellbeing, belonging and inclusion suitable to her age and stage. We share the educational psychologist concerns for the child as she learns in relative isolation.
61. There is no suggestion that the academic curriculum was unsuitable for the child. The appellant described the child as "a bright child eager to learn" although this is hampered by the difficulties that her anxiety presents. Details of academic progress at 090-091 are positive. She is working at the second level of the Curriculum for Excellence which is appropriate for her age and stage.
62. The child requires additional support in relation to some areas of literacy which is consistent with the consideration that she may have dyslexia. She is not particularly confident in respect of mathematics. Work has been undertaken with her in the small group setting to develop her self-esteem which will have a positive effect on her learning and ability to learn.
63. The child can be reluctant to ask for help however she is now supported one to one or two to one allowing staff to improve their knowledge of the child and enable support to be effective.
64. The educational psychologist began involvement with the child early in 2020. The educational psychologist has again been involved and observed the child in the small

group setting recently and will be involved going forward particularly in relation to secondary placement and transition.

65. Witness B advised that there had been a very limited handover between herself and the previous head teacher which placed witness B at a disadvantage in her role. She required to get to know all of the children without having been made aware of the child's circumstances or indeed the circumstance of the other children.

66. The child's educational experience is currently far more positive than it was on the date of the placing request.

67. We will break down our consideration of this part of the ground of refusal into specific areas.

General classroom environment at school B

68. It is clear to us that the child is now being educated in an appropriate physical environment in school B. It is a quiet area with no through traffic and has a dedicated toilet area. The staff involved in the classroom teaching are suitably qualified. The child is relatively settled in the small group setting. Attendance has not been an extreme issue for the child; during the academic year 2018/19 her attendance was 92.31% and her attendance for 2019/20 was 87.22%. Attendance has been limited since August 2020. However, an enhanced transition back to school following five months away from school has been agreed with school. The child returned to school full time on 7th September 2020.

Academic progress at school B

69. There is ample evidence to indicate that the child is making adequate academic progress at school B, given her age, stage and needs. It is clear from the child planning documents and school reports that appropriate targets are being set and that she is progressing. The appellant expressed concerns that the child's anxiety is hampering her academic progress and her education. At present her education is rightly focused on health and wellbeing. This matter seems to be agreed.

Specialist input at school B

70. The child, teaching and support staff now have the educational psychologist engaged. The environment that the child is placed in is of itself specialist input; as is the one to one teaching that she is receiving at the current time. The appellant and school staff have regular communication. Failure to communicate was noted prior to the start of term. There was no subsequent evidence that communication is an ongoing difficulty. The child has access to a private toilet which adjoins the small group setting. We accepted witness B's evidence that the child is prompted to eat, drink and use the toilet facilities. This rectifies the difficulty the child previously had with using a crowded toilet and asking to go to the toilet during class. Witness D was unsure if the child was being prompted to use facilities, however, did not give any evidence to suggest she was not being prompted and supported.

Anxiety at school B

71. It is difficult to understand the specific cause of the child's current anxieties. When asked the child said everything around school was difficult. None of the witnesses were able to narrow this. It appears to us that this is a long standing difficulty as a result of a failure to provide efficient support for the child's additional support needs prior to primary six. Witness D describes trauma in education and it may be that the effect of this is creating today's anxiety rather than anything specific triggering anxiety at the present time. Witness B detailed triggers for the child at school such as change on transition and unpredictable events and behaviour of others all of which is wholly consistent with her diagnosis of ASD. We are confident that any difficulties that arise now and going forward will be dealt with appropriately.

72. Given the child's additional support needs, it might be reasonable to expect some distress or anxiety; what is important is that any incidents are kept to a minimum and that they are handled appropriately when they arise. There was significant evidence from witness B and witness D that the child was much happier and settled attending the small group setting than she has been in the mainstream environment. Witness D advised that the child had began to settle but was again becoming anxious. We accepted that witness B would work appropriately with staff to move forward through difficulties with anxiety and address the child's additional support needs appropriately. Staff are at an advantage now that they are working closely with the child and have a better understanding of how her anxiety presents.

Social and life skills development at school B

73. There is evidence that these are being promoted at an age appropriate level. The lack of interaction with other children is a particular concern for us. The child requires the benefit of cooperative learning and involvement in school life to grow and indeed to meet all her wellbeing indicators (feeling safe, healthy, achieving, nurtured, active, respected, responsible and included). Movement towards a more inclusive education requires to be dealt with appropriately in consultation with the child and family. Inclusion may be some class friends attending the small group setting to work with the child rather than requiring the child to move to the mainstream setting for this interaction.

74. We are satisfied that school B can make provision for the child's additional support needs and that this part of the ground of refusal is met.

Reasonableness of placing the child in school A: respective suitability and cost - paragraph 3(1)(f)(iii)

General comments on the test

75. The application of the condition in this paragraph is disputed. This paragraph requires us to have regard to both the suitability and cost of the provision for the child's additional support needs at school B and school A respectively. Having carried out these comparison exercises, in order for this paragraph to apply, we must conclude that it is not reasonable to place the child in school A.

76. It is clear that we must have regard to both cost and suitability, and in considering both, to reach a decision on the reasonableness of placing the child in school A. In

other words, this ground does not require us to consider cost and suitability separately and apply a reasonableness test to each.

77. The question of reasonableness must be viewed from the respondent's standpoint. The suitability of the respective schools is a comparative exercise.

Cost

78. On cost, it is clear that we should consider the additional cost in meeting the additional support needs for the child at school B compared with the cost (the fees and transport cost) in relation to school A.

79. The cost of provision for the additional support needs of the child at each of the schools are not agreed. The school fees for attendance at school A are £7500. The respondent argued that the costs of retaining the child at school B are nil. This is not accepted by the appellant, however, there was no evidence or suggestion as to what the cost of educating the child at school B might be.

80. In the absence of alternative evidence or submissions being presented we require to accept that the cost of educating the child at school B is nil. There is a school of thought where in the absence of a comparative figure the comparative exercise cannot be carried out therefore the cost argument falls. We do not require to explore this further as the cost is not of itself prohibitive. The cost was not a significant factor in our decision.

81. School A advised that they were able to make provision for travel for the child. School A averred that they could provide travel if shared at a lower cost. We were not satisfied that this was wholly considered or viable as the children with whom the child could be transported were being transported by their local authority area. There appeared to be many variables that appeared to unnecessarily complicate this matter to consider the lowest figure presented by school A. The respondent advised after further evidence and investigations that they could provide transport for £7,696.83 based on the child sharing transport. It is this figure that we have used for comparator purposes. It was confirmed that the child was able to share a vehicle with other children and there was no need for the particular identified children including the child central to this case to be accompanied by an escort.

82. The costs of attendance at school A are £15,196.83.

Respective suitability – general comments

83. This exercise involves a direct comparison of the respective qualities as they relate to the child.

84. Evidence of particular value in considering this question is that of witness B. She has taken time to get to know the child, she has experience of observing the child in school B and working with the family to better understand the child's additional support needs.

She also has extensive experience as a head teacher managing a school with a specialist base attached all of which is relevant to providing support to the child.

85. Witness C did not know the child. She met with the child on one occasion within school A. A placement was offered to the child on the basis of this meeting and discussions with the child's family. The offer of placement together with Witness C's statement was wholly generic in nature. It presents School A as a bespoke place of education for those with varying additional support needs. There was no evidence specifically relevant to the child at the centre of this action. There were no details about how she specifically would be educated, how she would benefit from this placement nor why the general provisions provided were better suited to her than the extremely similar provisions currently provided at school B.

School A

86. Safe: School A will be in a position to keep the child physically safe in school.

87. Healthy: It is argued that placement in this school will have a positive effect on the child's mental health. The reasons given for this were general and related to high pupil teacher ratio and low stimulus environment (069-075). These measures are currently available to the child at school B. There is the counsellor on site and a focus on nurture, mindfulness and yoga that could be beneficial to the child. The appellant gave evidence that she had worked with the child in all these respects and the child remains anxious. We did not have evidence that the nurturing approach at school A was preferred for the child nor why it was preferred. We did not have evidence from a suitably qualified person that moving the child from her current position would address the child's anxieties. The central argument for placement is essentially to provide the child with a fresh start in a nurturing environment.

88. We are not satisfied that the possibility of an alternative nurturing approach would be so beneficial to the child to counter the other difficulties with School A.

89. Respected and responsible; it is proposed that the child, aged 11 years, will be the first child to attend the Vibe service at school A. She will not have any peers or classmates. It cannot be quantified when she may obtain peers or classmates nor can it be determined that these will be an effective peer group for the child. Evidence could not be heard in relation to peers as they are not identified. There is a vision only and not appropriate information for an appropriate comparison.

90. Included; There is clear evidence that the two provisions in existence at school A, The Junction and Sensational Learning are not suitable for the child. It may be implied then that the peer group there is not suitable for the child. In the absence of any classmates there are no consistent peers for the child to be included with or to learn with or from. Whereas it might appeal to the child and appear beneficial to the parents of the child at the current time to build confidence and self-esteem in a bubble we cannot place a child in provision that is in effect inactive at the present time. Furthermore, this may very well make future interactions and future efforts to integrate with peers much more difficult.

91. Witness C provided evidence that she had identified a number of children aged 13 to 16 years who had been out of school for some two years as potential classmates for

the child going forward. We were not satisfied that the potential children identified were a suitable peer group for the child either in terms of her social and life skills development or her academic learning. We were wholly unsatisfied at the prospect of the child learning by herself with the adult interaction only for a non-quantifiable period of time without access to other children. We were further dissatisfied about how difficult it was for the tribunal to obtain this information from witness C her lack of candour caused us to place less weight on her evidence.

92. There was further evidence that the child could have contact with young people attending the Junction service which has been identified by witness C explicitly as not being an appropriate service for the child as the young people there are moving on to the next phase of their life and learning. The child is simply not at that age and stage. Further the young people (13-25years) who accessed the Junction service attend only sporadically causing confusion and uncertainty and further lack of stability for the child.
93. We are of the view that the proposed curriculum is not suitable for the child given her age and stage. What is offered for the child is unlikely to be adequate or efficient and is unlikely to allow the child to meet her potential.
94. Activity: What is proposed at school A is very similar to the ongoing activity at School B in terms of outdoor learning. This was not a central focus of evidence.
95. The letter offering the child a place at school B (076-077) is broad and general. It appears to be the vision and ethos of the school and did not sit well with the factual position in relation to the Vibe service being offered to the child. Furthermore, the provision described is not vastly different to that currently being delivered at school B.

School B

96. Safe: on the face of it the child is physically safe in school, there is no evidence of self-harming behaviour at school at present.
97. Health: Difficulties in relation to the child's mental health raises question regarding safety; the safety of, or protection of her mental health and the dangers of living with extreme levels of anxiety and a propensity to self-harm. Every effort is being made to get to know the child and work with her within the parameters of her anxiety. Witness D gave evidence that there was a positive change in the child's presentation and Witness B was clear that the child is doing well. School B have made progress with the child. Were we to transfer the child to school A, the child would again have to get used to a new environment and new teachers, there was no evidence in relation to the effect that this may have on the child's health.
98. Achieving: She is progressing academically in line with her age and stage. There is no tangible evidence that the child is underachieving although it is accepted that her anxiety will impact on her academic progress although this was not quantified by any professional evidence.
99. Nurtured: There is clear evidence that the child is loved and cared for at home and that she is involved in sharing work at school with peers and with relevant adults. This has failed in the past, but we are confident that since August 2020 this has been progressing well building on some positives that were carried from primary 6 such as the munch bunch group.

100. Active: We heard that the child is active and particularly enjoys the outdoors. Both schools are fairly similar in this provision.
101. Respected and responsible: The child is building relationships with staff. She is liked among her small group setting and is interacting appropriately there. She enjoys playing games at her munch bunch group. The child is encouraged and prompted in relation to her timetable, toileting, eating and drinking to improve her own responsibility to herself and longer-term independence.
102. Included: The child was asked to produce a video to be presented to the school in relation to the small group setting illustrating that there is some involvement and inclusion in school life. She was previously involved in the Glee club; this cannot recommence mean time. Plans for further inclusion require to be progressed in conjunction with the educational psychologist and the child's family to ensure that her wellbeing is protected going forward.
103. It is clear from the evidence that the provision for the additional support needs of the child at school B is suitable. Provision there is not perfect in every respect, but it is overall the preferred choice.
104. We accept that the appellant knows the child better than anyone we heard from, and we closely considered her views on the respective suitability question. However, we were so significantly concerned about the lack of suitability of school A that we could not place the child there.

Conclusion on respective suitability

105. The provision in school B is more suitable for meeting the child's needs than the likely provision in school A. There are a number of concerns about the suitability of school A to the child's needs at the present time.

Respective cost

106. The cost differential amounts to approximately £15200 per year. In other words, it would cost the respondent £15200 more per year to fund the provision of the child's additional support needs at School A than at School B.

Conclusion – reasonableness arising from cost and suitability comparisons

107. Considering respective cost and suitability, we have decided that it is not reasonable to place the child in school A. If we were to overturn the decision to refuse the placing request and require the respondent to place the child in school A, this would involve taking her from her current school environment where there is evidence of reasonable progress and placing her in an environment where there are significant doubts around suitability due to the under developed nature of the provision.

Respondent has offered to place the child in school B - paragraph 3(1)(f)(iv)

108. The condition in this paragraph is met – the respondent has offered to place the child in school B (where she is currently being educated) by allowing her to continue to be educated there. This is not in dispute.

Appropriateness in all of circumstances - 2004 Act, section 19(4A)(a)(ii)

109. Having concluded that a ground of refusal exists, we require to consider whether, nonetheless, it is appropriate in all of the circumstances to confirm the decision to refuse the appellant's placing request, or whether we should overturn the decision and place the child in school A.

110. In considering this question, we must take account of all of the circumstances, including those which are relevant to the consideration of the ground of refusal, as well as any other circumstances which are not. In this case, all of the relevant circumstances have been discussed above, along with our views on each. In considering the evidence as a whole, we are satisfied that the refusal of the placing request should be confirmed. The respondent has behaved reasonably in deciding that adequate provision could be made for the child at school B. It is clear that reasonable educational progress is being made and that the child is reasonably settled at school B meantime.

111. The appellant raised a number of concerns around the provision at school B and made a number of positive points about school A, which she visited with the child. The points of concern around school B primarily related to the situation at the time of raising the reference as opposed to at the time of hearing which is the relevant time for us. The appellant's solicitor submitted that it would be inappropriate to look only at the period of time from August 2020 to the date of hearing. We have not done that; we have taken account of all of the evidence and preferred the evidence of witness B to that of witness C and the suitability of provision at school B overall to that at school A.

112. This is contrasted by the appellant with school A where she refers to a happier, quieter environment which would be caring and nurturing and reduce stress for the child and where she would learn more relevant life skills.

113. We have considered these points in our respective suitability examination, and we refer to that part of our decision. We consider them (along with all of the other evidence) here in the context of the much wider test of appropriateness. We have decided that it would, on balance, not be appropriate to place the child in a school where the educational provision is not as suited to her as it is at the school she currently attends. The uncertainty of the transition and development of the provision at school A is also a concern to us.

Additional comments

114. The comments in this section do not form part of the reasons for the decision in this case. These are optional comments which are designed purely for the assistance of the parties.

115. We were highly concerned about this child and her earlier educational experience. We have ongoing concerns in relation to her transition to secondary school and urge all parties involved to work closely with the child to ensure the correct provision and appropriate enhanced transition to that provision to ensure a successful secondary education.