



Additional Support Needs

DECISION OF THE TRIBUNAL

Reference

1. This is a placing request reference, lodged with the Tribunal on 13th August 2019. It is made under section 18(1) and section 18(3)(da)(i) of the Education (Additional Support for Learning)(Scotland) Act 2004 (**the 2004 Act**). The appellant asks the tribunal to require the respondent place the child in school B.

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 B.

Process

3. A hearing took place over two days. It was a remote hearing, conducted in this way due to the COVID-19 outbreak. It was due to take place by video conference, but due to technical difficulties for the appellant and his solicitor, the first day's evidence was taken by telephone conference. By day two, the technical problems had been resolved, and the remaining evidence was taken by video conference. 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 and received.
4. A joint minute of agreed facts was directed and prepared by the parties' representatives.
5. A late document was submitted at the request of the respondent, namely an entry from communication notes dated 1st May 2020. The appellant did not object to this document being received late and so this was added to the bundle, page R105. This means that the written evidence we considered (the bundle) consists of: T1-T025; A1-A076 and R1-R105. Before reaching our decision, we fully considered the oral and written evidence and written submissions.

Findings in Fact

General findings

6. The appellant is the child's grandfather. The appellant and his wife care for the child. The child lives with them. The child is 12 years old.

7. The child has a diagnosis of autism spectrum disorder ('**ASD**'). He finds new concepts difficult to grasp, and sometimes responds emotionally to new concepts. He benefits from clear explanation of social and interpersonal situations. He enjoys social interaction and he is good at making friends. Some of the child's social interests are immature for his age. He is sensitive to noise. The child does not have a learning disability.
8. The child benefits from stability and requires adult support especially with new experiences and transitions. He benefits from the input of adults he trusts and who know his needs well.
9. The child is a pupil in school A and is in secondary year 2 ('**S2**') there. The child has attended school A since August 2019, when he entered secondary year 1 ('**S1**'). The child did not attend school between mid-March 2020 and August 2020, due to the COVID-19 pandemic that led to the closure of school A from mid-March 2020 until the end of the 2019-20 academic year. The child has been attending S2 at school A since shortly after the start of the 2020-21 academic year.
10. Prior to attending school A, the child was formally assessed for literacy and numeracy. The outcome of these assessments indicated that the child could access mainstream education with support.
11. The child does not have a coordinated support plan under the 2004 Act.

Findings on school C and the child

12. Prior to attending school A, the child attended school C for the whole of his primary school education. By the time the child reached the end of his time at school C, he was working confidently at Curriculum for Excellence ('**CFE**') Level 1, and he had started on CFE Level 2 for some subjects.
13. CFE Early Level normally applies to pupils prior to primary year 1. Level 1 of the CFE usually takes pupils up to the end of primary year 3, while CFE Level 2 usually operates to the end of primary year 7. Level 3 CFE would normally be reached by secondary year 3. The child is predicted to reach level 3 by secondary year 3 ('**S3**'). Some pupils do not work at the CFE level indicated by their school year of study. Some primary 7 pupils in mainstream schools are working at CFE, Level 1. Pupils who work at CFE Level 2 are typically in mainstream secondary education.
14. By the end of his time at school C, the child was performing well academically. He was happy and worked well in the classroom and with others. His behaviour did not present school C staff with any difficulties. He was noted as being "sometimes" confident. In reading, by the end of his time at school C, he sat within the middle 50% of primary 7 learners, towards the lower end. Compared with other pupils in his class, the child was performing academically very well by the end of primary 7. Some pupils in his class were working at CFE Early Level in numeracy and literacy while the child had started on CFE Level 2 in these subjects.
15. The child made a number of friends among school C pupils. In academic year 2019-20 (the year after the child left school C and attended school A), some of the child's friends from school C stayed there, some went to school B and some went to other secondary

schools. The child's closest friend from school C attended a secondary school that is not school B.

16. School C shares a joint campus with a local mainstream school. Pupils at school C would share activities with those at the mainstream school, such as joint working committees and joint assemblies. Pupils from school C would sometimes play in the playground with pupils from the mainstream school. The child engaged in some of these joint activities while at school C.

Findings on school A and the child

17. School A is a secondary school under the management of the respondent. It has a roll of approximately 600 pupils, aged from 11 to 18 years old.
18. School A operates a Pupil and Family Support Centre ('**PFSC**'). The child attends the PFSC. He is one of seven pupils who attend there. The purpose of the PFSC is to cater for pupils who have needs which mean that they may be able to access mainstream school education, but who may require specialist help to do so. The education in PFSC is delivered at a slower pace than in mainstream classes, and is more supported than mainstream education. Once instructions and tasks have been set for pupils in the PFSC, one-to-one support can be provided to pupils who need it.
19. The pupils who attend the PFSC have a wide range of learning and support needs. The child is the only pupil in the PFSC with ASD.
20. Pupils in the PFSC access literacy and numeracy education each day there. In addition, they access physical education, health and wellbeing education, photography, social subjects, art, music and technology. Much of the learning in these subjects is practical learning. Pupils in the PFSC also receive social and emotional skills and life skills support.
21. The PFSC is staffed by two teachers who are dedicated to that Centre, an additional support needs assistant and a dedicated deputy head teacher who leads the PFSC (witness D). These members of teaching staff deliver some of the education in the PFSC, alongside some specialist teachers.
22. During academic year 2019-20, while in S1, the child attended the PFSC for some of the school week, and in mainstream classes in school A for some of the school week. The child would usually attend the following mainstream classes:
 - a. English: 4 times per week
 - b. Maths: 4 times per week
 - c. Social Subjects: 3 times per week (from January-March 2020)

For the remainder of the school week, the child would attend classes in the PFSC. The classes the child attended in 2019-20 are shown on a timetable at R086 of the bundle, with the mainstream classes marked in yellow, the remaining classes taking place in the PFSC. The child's timetable for academic year 2020-21 will be similar to that in 2019-20.

23. In the current academic year, the child is accessing three or four periods of English and Maths lessons in mainstream provision per week. This is the maximum number of weekly

lessons for those subjects which mainstream pupils not attending the PFSC would attend. The child is also currently accessing social subjects twice per week. The child's access to mainstream subjects has been built up gradually since the start of the 2019-20 academic year. There are around 20 pupils in the mainstream Maths and English classes the child attends

24. When the child attends mainstream classes in school A, he is accompanied by an Additional Support Needs ('**ASN**') assistant or a PFSC teacher. This member of staff escorts the child to the mainstream classroom and stays with him for a short period (usually 5-10 minutes) to ensure that he settles in.
25. The child receives teaching in some subjects while in the PFSC from mainstream teachers, for example in music and art.
26. School A staff intend, when possible, to increase the proportion of the school week spent by the child in mainstream classes. The aim, in time, is to increase that proportion to around 85% of the school week.
27. The child is currently accessing CFE Level 2 in English and he is accessing a mixture of CFE Level 1 and Level 2 in Maths.
28. The child is working at a level between the top group in the mainstream Maths class in his year and the bottom group, closer to the bottom group. There are mainstream pupils in the child's year whose literacy level is lower than the child's literacy level.
29. Staff in the PFSC have devised a visual scale tool for the child. The purpose of this tool is to allow the child to let the teaching staff know how he is feeling at any particular point. This scale runs between 1 and 5, 1 indicating that the child is happy to be there and 5 indicating that he is anxious or worried. The child's English and Maths teachers and his ASN assistant are aware of that scale. If the child indicates a 3 or 4 on the scale, he will usually be taken out of the class for a short period as a break. On some of these occasions, the child would return to the PFSC, on others he would return to the class. The number of times such a break from class was required reduced as the 2019-20 academic year progressed.
30. In addition to regular timetabled mainstream classes, the child (along with other members of the PFSC) accessed other S1 level learning opportunities during academic year 2019-20. These included: an outdoor learning walk, careers events, an author talk, maths challenge day, growth mind-set challenge, Freaky Fortress and some extra-curricular opportunities.
31. The child has been making good progress in literacy and numeracy while at school A. It is expected that the child will, by the end of his secondary schooling, be able to attain Scottish Qualifications Agency ('**SQA**') National 4 or 5 qualifications in some subjects. He may be able to attain Higher grades in some subjects.
32. During the initial few weeks at school A, the child found it difficult to interact with other pupils there. He was quiet and stayed in the corner of the room. Since then, the child has been socially opening up and building friendships with other pupils. He now has strong friendships with three other pupils in the PFSC. The child eats lunch with these boys and spends time with them in the playground. He has developed a very strong friendship with

one particular fellow PFSC pupil. The child also meets pupils who do not attend the PFSC when he attends in the shared playground of the school.

33. While at school A, the child sometimes finds it frustrating when the pace of learning in the PFSC is slower than he would prefer.
34. During the period between mid-March and August 2020, while school A was closed, the child was being bullied online. One of those alleged to be carrying out the bullying is a fellow pupil at school A. Witness D, on hearing of this allegation, met with the child's grandparents and with one of the parents of the pupil alleged to be carrying out the acts of bullying. The pupil denied the allegation. Witness D advised the child's grandparents that the allegations could be referred to the police. Witness D also indicated that the police may become involved if there were evidence of any bullying at school A. Following the alleged acts of bullying, the child continued to play online games with the same two boys, one of whom was the pupil alleged to have bullied the child.
35. The child refuses to complete homework tasks set by school A staff. School A plans to make some time during the school day to allow the child to complete homework tasks. School A encourages the child to complete homework tasks, but does not (and does not intend to) force him to do so.

Findings on school B

36. School B is an additional support needs school managed by the respondent. The school roll at school B is 137, from S1 to secondary year 6 ('S6'). There are approximately 10 pupils in each class at school B. School B pupils are taught in classes with pupils in the same year group. There are usually at least two members of school staff with each class at all times. ASN assistants will also join classes when needed.
37. All pupils attending school B have a learning disability, and this is a criterion for admission to school B. The pupils at school B have a wide range of conditions including: global developmental delay, cerebral palsy and Downs' Syndrome. Another indicator for admission to school B is that pupils would usually require to be working at CFE Early or First Level. The children who attend school B tend to be functioning at primary school level in intellectual capacity terms.
38. Around one-third of the pupils at school B have a diagnosis of ASD. Some classes there are predominantly populated by pupils with ASD, others are not.
39. Classes in school B consist of pupils whose educational needs and abilities vary significantly. Due to this, it is usually impossible to teach pupils in a class a single, simultaneous lesson. Group work within classes at school B is limited due to the different educational levels of the pupils in each class.
40. In S1-S3 at school B, around 95% of pupils are accessing the CFE Early of 1st Level. One or two pupils in S1-S3 are doing aspects of CFE 2 Level 2. These pupils are not at Level 2 but are working towards it.
41. Of the current S2 pupils at school B, while two pupils are doing aspects of their education at CFE Level 2, none are securely working at that level, three pupils are working at CFE Early Level, and the remaining pupils (over 20) are working at CFE Level 1.

42. Pupils at school B tend to leave school with Scottish Qualifications Agency ('SQA') SQA National 2 and National 3 level qualifications.
43. School B is co-located with school D. Around 1300 pupils attend school D. School D is a mainstream secondary school. School B and school D do not share a playground. They share a theatre. There is some collaboration between school B and school D, for example in maintaining beehives, in English (at certain parts of the year), in a joint choir and in some charitable work. The senior pupils at school D sometimes assist in some practical classroom activities in school B.
44. Two children from school B are attending mainstream classes in school D. There is generally very little opportunity for school B pupils in S1-S3 to attend mainstream classes in school D. This facility is usually available from S4 onwards.

Reasons for the Decision

General remarks on the oral evidence

45. The evidence we heard from the witnesses was credible. The evidence of the witnesses for the respondent was also reliable. The appellant gave his evidence in a credible and reliable way. We found the child in stating his views was open, engaging and honest. We found the evidence of witnesses C and D to be especially relevant and impressive.
46. On witness E, while she gave her evidence in a clear, precise way, we found her evidence to be of less value than that of witnesses C and D. There is no doubt that witness E is highly qualified in her field. However, the reliability of her evidence on the question of the factors relevant to the suitability of schools A and B for the child, was undermined by the circumstances in which her report was prepared. She has not met with the child, or seen him in an educational setting. She did not speak with any of the staff from either school, or with witnesses A or B. Her report was based only on an examination of certain documents, the latest of which was dated December 2019.
47. Further, much of witness E's conclusions are based on how she perceives a child with ASD might fare in certain educational settings. By contrast, witness D knows the child and sees him every day at school. He is responsible for the PFSC, and so has known the child in a school setting for over 7 months.
48. For these reasons, having viewed witness E's evidence in context, and having carefully considered it, we do not feel that we can place any substantial weight on the conclusions she reaches.

General remarks on the legal test

49. As set out in the case of *M v Aberdeenshire Council* 2008 SLT (Sh Ct) 126 (Sheriff Court)), the appropriate assessment point is at the time of the hearing. We accept that the onus of establishing the ground of refusal lies with the respondent. We also accept that (again arising from the *M* case), 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 respondent's witnesses' oral and written evidence, especially the evidence of witnesses A and D.

50. 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 child is looked after by a local authority and so has additional support needs under s.1(1A) of that Act.

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

51. The respondent argued that one ground of refusal of the placing request exists. The ground in question provides:

“[the duty to place the child in the school does not apply] if the education normally provided at the [school in the placing request] is not suited to the age, ability or aptitude of the child.” (2004 Act, Schedule 2, para 3(1)(b)).

52. The term ‘age, aptitude or ability’ is to be construed disjunctively, so that lack of suitability on any of the three variables will suffice (so the phrase should be read as ‘age OR aptitude OR ability’): *Coates v Lothian Regional Council* 1999 Fam LR 8 (this point was conceded: para 8-05).

53. A number of preliminary observations about this ground should be noted:

(a) This refusal ground involves a consideration of the suitability of school B only, and not a comparative suitability assessment of schools A and B;

(b) The ground involves the suitability of the education specifically for the child;

(c) We require to consider the education ‘normally provided’ at school B (we come back to this later);

(d) It is evident that lack of suitability on any of the three variables of age, ability and aptitude (or a combination of more than one) is sufficient to lead to the conclusion that the ground exists and that we may not consider any other variables;

(e) The use of the term ‘not suited’ suggests to us that the focus is on an overall lack of suitability (against the three specified variables);

(f) Giving these words their ordinary and natural meanings (which we must do where a different interpretation is not indicated) the term ‘ability’ refers to current capability, while ‘aptitude’ refers to potential (natural) capability. We will adopt these meanings as we analyse the evidence.

(g) Finally, we are not tasked with considering whether the education normally provided at school B is suited to the child across the variables specified; the focus of the ground of refusal is whether the education at school B is not so suited;

54. The significance of this last observation is clear when one considers the burden of proof. The respondent must persuade us that (to paraphrase the wording of the ground) the education at school B is not suited to the child. The appellant need not establish that the education at school B is so suited. In essence, the respondent needs to satisfy us of a negative conclusion (not suited). Further, the term ‘not suited’ suggests a fundamental

incompatibility, rather than considering whether the school is not ideal for the child or that it is not designed to meet the needs of the child.

55. In considering the word “normally”, this means that the suitability of the education is not to be judged by reference to what could, conceivably be provided; instead, what should be considered is the normal (or usual) educational provision in the school.

56. Turning to the facts in this case, we will deal with each of the main factors which contribute to our assessment of suitability. In doing so, we refer back to the relevant findings in fact above.

Level of education at school B (paras 27-28, 37 and 40-41)

57. In considering the child’s ability and aptitude as it relates to his education, the level at which he is able to learn and progress at school is crucial. The pupils at school B are operating at a lower educational level than the child is. The normal level of pupils at school B is CFE Early to Level 1. The child is operating, in the main, at Level 1 - Level 2. The pupils at school B operate at primary school level. The child is predicted to be able, in S3-S6, to take subjects at SQA National 4 or 5 levels or SQA Highers. In our view, it would not make sense for the child to be being educated during S2-S3 at a lower level than his capability indicates, as he prepares for his senior years, when he could aim to attain National 4 or 5 and possibly Higher qualifications.

Predicted attainment for the child (paras 31 and 42)

58. A different (but related) point is the predicted attainment level for the child. Witness D is of the clear view that the child may be able to progress to taking some subjects at SQA National 4 or 5 Level, and possibly some Highers. At school B, the usual attainment level is SQA National 2 or 3 Level qualifications. This directly affects the aptitude consideration.

Eligibility criteria for entry to school B (paras 7 and 37)

59. The child does not have a learning disability (ASD not being a learning disability), which is one of the usual eligibility criteria for entry to school B. In addition, working at early level or Level 1 is another eligibility criterion. The fact that the child does not meet either criterion is a further indicator of the lack of suitability of school B.

Suitability of the learning environment (paras 19-21, 32 and 39)

60. The classes at school B consist of children with a wide range of learning challenges. These classes include some children who cannot communicate and some who can. Witness C was clear in his evidence that, because of this range of abilities, the teaching of a single lesson to all pupils in a class is often not possible.

61. Further, group work opportunities among pupils in classes at school B are limited, since the pupils in the class groups are not intellectually matched.

62. In considering the child attending the school, witness C expressed reservations about the child’s opportunity to educationally progress given that he is operating at a higher

level than the other pupils who attend school B. He expressed the view that if the child attended school B he would stand out in terms of ability.

63. Taking each of these factors together, a picture is painted of school B offering a learning environment which is different to one which would suit the child.

Mainstream education opportunities (paras 16, 18, 22-26, 28 and 43-44)

64. It is clear that the child benefits from accessing mainstream education. He did so (to a limited extent) in school C, and this has increased substantially in his time at school A. Witness C gave evidence of international research on the recognised benefits of mainstream education for those who could access it. His evidence on this point was not challenged, and he is certainly qualified to form a view on this, given his 23 years in the teaching profession.

65. Witness D was clear in his evidence that the child enjoys mainstream education and this was reflected in the child's view expressed directly to the tribunal.

66. Opportunities to access mainstream education are limited at school B. Although witness C stated that attendance at school D might be possible prior to S4, this was not the usual course of action. This is concerning, since there would, in our view, be a danger that if the child attends school B, his access to mainstream education could at the very least be seriously curtailed in S2 and S3. The child is clearly someone who enjoys and benefits from attending mainstream classes. His timetable during academic session 2019-20 (August-March) involved a build-up of mainstream class access to the point where he was attending such classes for around one-third of each school week. The plans at school A are to increase this further over time. This is in sharp contrast with the arrangement at school B where there is no guarantee of any mainstream class access in S2 or S3.

Conclusion on the ground of refusal

67. Taking each of these five factors together, we have reached the very clear view that school B is not suited to the ability or aptitude of the child (as these terms are defined, see above). In essence, the school is designed to cater for children who have more pronounced learning difficulties than the child, causing a gap between the abilities and aptitudes of the children at school B and the child. That gap in ability and aptitude levels would lead to an educational experience for the child which would not be suitable for him. He would be unlikely to be able to display and enjoy his current ability levels or achieve his potential, in particular academically.

68. In these circumstances, the ground of refusal relied upon by the respondent exists.

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

69. 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 B.

70. In considering this question, we must take account of all of the circumstances, consisting of those which are relevant to the consideration of the ground of refusal, as well as any other circumstances which arise in the evidence and submissions.

71. Taking a general view of the matter, where we have reached the conclusion that the education normally provided at school B is not suited to the ability or aptitude of the child, there would have to be good reason for us to, nevertheless, order that he is placed there. Such good reasons do not exist here. We will proceed to examine the relevant factors.

Lack of suitability of school B

72. We have dealt with this above, and we refer to our conclusions there. This is a factor which points against placing the child in school B. The appellant's representative suggests in his submissions that the fact that the child attends a 'special school', namely the PFSC (which we accept is a special school under s.29 of the 2004 Act) means that the respondent cannot argue that he should not attend school B, also a special school. We do not accept this point. Each special school is different, and a child who is suitably placed at one such school might not be so placed if attending another. In any event, this argument ignores the fact that the child spends a substantial (and increasing) proportion of his school week in a mainstream environment.

Suitability of school A

73. In general terms, there is strong evidence that the child is performing well in school A. Reference is made to the findings in paragraphs 17-35 (in particular 31-32) above. The child does, in his statement, identify some negative points about school A, but these are not significant, and taking the evidence as a whole, it is clear that the child is happy at the school and is performing well academically and socially. This is clear from not only the oral evidence of witness D, but also the child's school reports (R087-R089, progress reports from October and December 2019). He is benefitting from mainstream education. He has friends at school A.

Transition to school B

74. If we were to order that the child is placed at school B, he would require to transition there from school A. Witness A expresses concern at the impact a further transition would have on the child. We agree that such a process could be disruptive, especially for a child with ASN and in circumstances where he is settled at school A and doing well there.

Friendships

75. The appellant relies principally on this factor as a reason for the child to be placed at school B. It is clear from the evidence that friendships at school are important for the emotional and social stability of children, especially those with additional support needs. The appellant's main concern here is that when the child left school C, he lost some of his established friends. As the appellant's representative indicated in his written submissions, it is not clear from the evidence how many of the child's classmates from school C currently attend school B. The picture is complicated by the fact that some pupils from the child's primary 7 class stayed back at school C when the child transitioned to school A, some went onto school B and some went to other secondary schools.

76. The appellant in his evidence made reference to three children with whom the child was friendly while at school C. Only one of those children attends school B. The child's closest friend at school C did not attend school B but attended a different school.
77. We note that the child has made friends with pupils at school A, and that he has no difficulties in making friends (although he needs support in doing so).
78. While we accept that the loss of friends from primary school to secondary school is unfortunate (although inevitable within the Scottish school system) and could affect a child to a significant degree, we do not feel that the child in this case has been so affected. There is no evidence from the staff who most recently taught the child that he is unhappy at school A or that he has expressed unhappiness due to not being able to spend time with his friends from school C. When we spoke with the child, he did not wish to speak about his friendships.
79. In addition, there is no evidence to suggest that the child spends time on a regular basis with friends from school C in his free time. The appellant in his evidence indicated that the child had not seen some of his best school C friends in a year. This suggests to us that the friendship bonds are not, at least now, strong.
80. At best, the child would be able to re-kindle one or two friendships with particular children from his school B class. There is no evidence to suggest that the child would be re-united with a group of school C friends if he attended school B.
81. Even if that were the likely outcome of the child attending school C, only in an extreme case would such a factor be a significant one in the decision as to where the child should be educated. This is not such a case. Of more significance are factors such as the level of education being provided and the child's progress and happiness at school.

The child's behaviour at home

82. The appellant stated in his evidence that the child is reluctant to get ready in the morning to attend school A and that he comes home from school A and says he hates school. The appellant indicated that the child has 'meltdowns' about school.
83. In the tribunal's discussion with the child, we detected very little negativity about school A. Indeed, the child spoke about aspects of school A in a positive light. He indicated that his favourite subject is history and he spoke with some enthusiasm about the specifics of that subject. He indicated that he wishes more mainstream classes. He did not say anything negative about staff at school A. It seemed to us that his views were being expressed genuinely and openly and he was not reluctant to engage with us.
84. We note also the evidence from witness D of the child's happiness and progression at school A.
85. Taking the evidence as a whole, we take the view that the child is generally happy at school A. It may be that the child expresses this differently to the appellant and his wife and that the transition to school each morning is something the child finds difficult, but we are not persuaded that the child's behaviour at home indicates that he is unhappy at school A.

86. Even if that were the case, there is a difference between unhappiness at attending school A and a decision that the child ought to attend school B. Such unhappiness (if it did exist) would not overcome our view on the lack of suitability of school B for the child's education.

Homework

87. The appellant expressed concern about the child's refusal to do any school homework set by school A staff. This appears to be related to the child's strong view that school work should be completed at school, and that time at home is his own time.

88. We can understand why that is a concern for the appellant, but witness D stated that homework tasks set by school A staff would not be forced. Further, in school B a less strict approach appeared to be in place for homework.

89. Witness D indicated that this matter had been given consideration, and a possible plan was to allow the child to complete any homework in the PFSC. The homework issue is, therefore, one which school A is attempting to resolve.

90. In any event, it is not clear how this situation would be resolved if the child attends school B. This issue therefore does not assist us in considering where the child should attend for school.

Bullying allegations

91. The appellant argues that the child has been bullied by school A pupils. There are two allegations.

92. The first is that during school time, the child was set upon by classmates in the school toilet one day. The aim was to take money from the child which he had been given by a teacher as a reward for class work. There was no indication in the evidence that school A was aware of this allegation.

93. The second allegation relates to threats made by school pupils to the child during the period between March and August 2020 (while school A was closed) during online gaming between the child and two school A pupils. These pupils were friends of the child at school A.

94. The child indicated to a social worker that he intended to take a knife to school in order to protect himself as a result of the second allegation.

95. In connection with the second allegation, although this did not happen in school time, school A staff spoke to the parent of the pupil about whom the allegations were made. The pupil denied the allegations.

96. While these allegations will, of course, be of some concern to the appellant and the child, they are not a sufficient reason for the child to attend school B. Some of the allegations relate to a period when school A was closed, and are therefore unrelated to the child's education there. The allegations which relate to school time do not appear to have been reported to school A staff.

97. In any event, there is no indication that bullying at school A is an ongoing, serious issue which is not being handled well such that a move of school is merited.

The child's wellbeing

98. The appellant argues that the child's mental health is deteriorating and that he is losing weight. However, there is no skilled evidence to indicate that the child's mental health is being negatively impacted by attending school A; the majority of the skilled evidence points away from this. On weight loss, again there is no evidence from which we can infer that there is any connection between the child's physical health and his education. The majority of the evidence we do have suggests the child is happy at school A.

Transition to school A

99. There was evidence that the transition of the child from school C to school A was not well handled, and in particular that it was delayed. The evidence suggests that this led to a much less intensive transition process than would normally have taken place. The respondent does not deny that this is accurate.

100. While such a situation is highly unfortunate, we have to be careful to remain within the remit of the task we have to perform. We are not tasked with a review of the education arrangements in relation to the child. We are only permitted to consider whether, within the framework of the 2004 Act, the child should be placed in school B. It is possible that an inadequate transition process had a negative impact on the child as he initially attended school A in August 2019. Even if we were able to reach that view, we need to consider the evidence today, and how that reflects on suitability and appropriateness in relation to the child's current and future schooling.

101. While we acknowledge the issue around the adequacy of the transition arrangements, it is not a factor of direct relevance in this case.

Conclusion on appropriateness

102. Taking all of these points together, it is appropriate in all of the circumstances to confirm the respondent's decision to refuse the placing request.