



Additional Support Needs

**DECISION OF THE TRIBUNAL**

FTS/HEC/AR/22/0173

**Witness List:**

**Witnesses for Appellant:**

Head of Education of School A (**Witness A**)  
Clinical Psychologist, Lead Clinician Therapeutic Service, (**Witness B**)  
Child's mother (joint statement provided with the appellant – in writing only (**Witness C**)  
Trumpet tutor – in writing only (**Witness D**)  
Child and Adolescent Psychotherapist – in writing only (**Witness E**)  
Clinical Psychologist – in writing only (**Witness F**)  
Martial Arts Master – in writing only (**Witness G**)

**Witnesses for Respondent:**

Headteacher of School B (**Witness H**)  
Principle Educational Psychologist (**Witness I**)

**Reference**

1. This is a reference in relation to a placing request lodged with the Tribunal in October 2022. It is made under section 18(3)(d)(a)(ii) of the Education (Additional Support for Learning) (Scotland) Act 2004 (**The 2004 Act**).
2. The appellant made a placing request for the child to attend school A, an independent special school. Formal letter refusing the placing request was issued by the respondent by email of December 2022.
3. The respondent relied upon grounds 3(1)(d) and 3(1)(f) of Schedule 2 of the 2004 Act in refusing the placing request.

**Decision**

4. We are not satisfied that either ground for refusal exists and overturn the decision. We require the respondent to place the child in the school specified in the placing request (school A) with immediate effect or by such other date as the parties agree.

## **Process**

5. A case management call took place in December 2022. The hearing took place in two dates in March 2023.

6. The child attended the hearing to provide his views on the second hearing day.

7. Written submissions were provided by both parties and supplemented with oral submissions at the conclusion of the hearing.

8. A joint minute of agreed facts was lodged at T044 and accepted without further need of proof.

9. Additional witnesses for the appellant were allowed as these witnesses provided evidence in writing only. The appellant confirmed that these witnesses would be available for cross examination and questioning by the tribunal if required. The respondent confirmed that he was content that the statements be accepted without cross examination. The written statements were lodged as follows: -

- a) Witness D at A032
- b) Witness E at A033 to A034
- c) Witness F at A035 to A036
- d) Witness G at A037 to A040.

## **Findings in Fact**

### *The child*

10. The child is 13 years of age.

11. The child has an acquired brain injury caused by encephalitis infection when he was aged 5 years.

12. In addition, the child has a condition which can cause issues with physical and psychological wellbeing. **[This paragraph has been amended by the Chamber President for reasons of privacy under rule 55(3)(b) of the First-Tier Tribunal for Scotland Health and Education Chamber Rules of Procedure 2018 (schedule to SSI 2017/366)]**

13. The child has significant behavioural issues which impact on his ability to form relationships with teachers and learn in a traditional classroom environment.

14. The child's early years at school have resulted in him having a general negative attitude about school and a lack of trust of school staff that is deep rooted and requires extremely trusted adult supervision to overcome.
15. The child has experienced significant trauma related to his school experiences and requires a therapeutic approach to his education.
16. The child has missed substantial periods of education at school.
17. The child attended school C, a mainstream high school, until January 2022.
18. The child was excluded from school C in January 2022. The exclusion was successfully appealed by the appellant. The child has not returned to school C and has been home schooled by his parents since that date.
19. The child likes attending school and wants to be educated with peers at school.
20. The child is supported by his parents to engage in a number of extracurricular activities including weekly one-to-one trumpet lessons with witness D.
21. During one-to-one trumpet lessons, the child struggles to concentrate and is easily distracted. He occasionally struggles with his memory and interruptions to his train of thought.
22. The child has difficulty maintaining attention and concentration and must be occasionally reminded of the task in hand to focus his attention. He benefits from shorter tasks and exercises of between 15 and 20 minutes with breaks to allow him to refocus.
23. Occasional memory difficulties mean that the child sometimes struggles to correctly remember musical rules and terms as well as tasks and exercises from previous lessons. He is assisted by repetition and associating exercises with physical movements or aligning them with his personal interests.
24. The child has been instructed by witness G in a traditional martial art. The practice of this martial art boosts the child's confidence and can assist him in coping with challenges in everyday life. **[Part of this paragraph has been removed by the Chamber President for reasons of privacy under rule 55(3)(b) of the First-Tier Tribunal for Scotland Health and Education Chamber Rules of Procedure 2018 (schedule to SSI 2017/366)]**
25. The child has been instructed by witness G since February 2021, initially in one-to-one sessions and, after 6 months, joining a weekly group.
26. The instructor has supported and engaged with the child, employing techniques such as framing lessons in a way which maintains the child's focus and attention, building trust,

having breaks, empathising and reflecting after a verbal outburst, using positive energy and attitude, moving on quickly to shift focus away from the issue that triggered an outburst, addressing the child's negative self-talk, encouraging him to reset and start again, providing the child with reassurance and offering him disciplined structure.

27. The child has achieved his learning goals and milestones in which will be his biggest martial arts challenge to date. **[Part of this paragraph has been removed by the Chamber President for reasons of privacy under rule 55(3)(b) of the First-Tier Tribunal for Scotland Health and Education Chamber Rules of Procedure 2018 (schedule to SSI 2017/366)]**

28. The child responds well to flexible lessons adjusted to suit his mood and ability to concentrate at that time. He thrives in an environment that is personalised to his interests responds to positive reinforcement.

29. Factors which have contributed to the child's difficulties at school include his brain damage, subsequent symptoms and interactions at school (A033).

30. The child has taken part in 12 individual clinical sessions with witness E, child and adolescent psychotherapist.

31. The child has feelings of fear and of being out of control which are triggered in the school environment, due to having been physically restrained and, in his view, treated unfairly. These underlying feelings necessitate a therapeutic environment and consistent relationships for trust to build before learning can take place fully. (A033)

32. The child requires a therapeutic teaching environment that is beyond that of the traditional classroom environment. He requires an environment which is consistent, predictable, nurturing and low stimulus. He requires teaching staff who are aware not only of his learning needs, but are also sensitive to his emotional needs and able to form a trusting relationship with him (A034)

33. If educated in a therapeutic teaching environment, the child is likely to thrive.

34. While the child can identify appropriate techniques to manage discomfort and strong emotions during clinic sessions with his psychotherapist, he often has trouble acting upon them in busy and stressful situations due to impulsivity, poor concentration, emotional control and anxiety (A035).

35. The child demonstrates an awareness of the behaviour expected of him by others and can often experience low self-esteem if he has been unable to meet these expectations.

36. The child is, because of his medical history, likely to struggle to engage with learning, maintain good behaviour and develop positive relationships with teachers and peers at school without support and guidance to manage his emotions.
37. The child learns at his own pace and feels confident to ask questions.
38. The child is easily distracted and can become dysregulated in a noisy environment. In a classroom where other children are chatting, he will chat the loudest.
39. When attending school C, the child was often sent out of class to go to the deputy headteacher's office for a quiet space. He associated that with getting into trouble.
40. At school C, the child could attend a wellbeing hub. It was not a calm and quiet environment, and a number of children could be there at any one time.
41. When the child attended the wellbeing hub with a female member of staff. He felt safe and secure. When she left the school, he did not form a secure relationship with any other members of staff within the hub.
42. The child visited school B. He felt that it would be a punishment to be sent there. The school looked like a prison to him.
43. The child has visited school A. It reminded him of his primary school; it felt warm and calm. The location was nice, and the child thought that he could thrive there.
44. The child finds it helpful to talk to trusted adults including his martial arts instructor. He can confide in trusted adults about problems he has which he does not wish to discuss with his parents.
45. The child is encouraged to talk about his feelings and enjoys one-to-one weekly discussions with witness E.
46. The child's additional support needs (ASN) cannot be met in a mainstream provision.

### *The Placing Request*

47. The appellant made a placing request for the child to attend school A in June 2022.
48. Placing requests for places in special schools are considered by a multi-disciplinary panel of the respondent known as the Education Placement Group (EPG).
49. The EPG comprises 2 senior educational psychologists, 2 special school headteachers, including the headteacher of school B and one deputy manager of the visiting teaching service.

50. The EPG met in September 2022 to consider information provided by the appellant as part of his placing request. The panel recommended school B, a special school under the management of the respondent, for the child.
51. On or around early October 2022, the respondent wrote to the appellant offering a place for the child at school B. The respondent did not at that time set out a statutory ground of refusal for a placing request.
52. The appellant lodged reference form in this case (T001) with the tribunal in October 2022.
53. In November 2022, the respondent wrote to witness I by email (R346) asking him to decide on the placing request and setting out the basis on which he should do so.
54. In reaching this decision Witness I relied on information provided by the appellant and others to the EPG, discussion with witness A and a comparative report dated November 2022 provided by the educational psychologist (R338-R345).
55. In December 2022, the respondent wrote to the appellant by email confirming that the authority had refused the placing request (R351).

### *School A*

56. School A offers placements for up to 24 primary and secondary aged children, for day pupils and for joint education and care placements.
57. Class sizes vary. Some pupils are educated on a 1:1 basis if necessary. The maximum class size is 4 pupils with one teacher and one support assistant in each class.
58. There are currently 16 pupils in school A with a wide range of complex needs. Around 65-70% of current pupils have Autistic Spectrum Disorder (ASD) or ASD traits, almost all have attachment issues, many have experienced trauma and many have co-morbid diagnoses.
59. School A has five secondary trained teachers, one secondary trained principal teacher, one Further Education trained teacher, one primary teacher and one principal teacher trained in primary education. Teachers are supported by five teaching assistants. In addition, the school employs a massage and relaxation therapist and a music therapist.
60. School A delivers the Broad General Education (BGE) curriculum beyond the primary stage and in the senior phase offers a wide range of National Qualifications in a number of subject areas including Highers.

61. Central to school A's curriculum of is a nurture principal enabling pupils to feel safe as its foundation, and learning opportunities are offered to young people matched to their developmental and learning needs.
62. A therapeutic approach is woven through the education provision and is delivered and overseen by an onsite therapeutic team, providing a safe space away from the main school building while being accessible to all staff and young people (R317-R322).
63. The therapeutic team at school A consists of a clinical psychologist, a speech and language consultant, a therapy assistant and a sessional massage therapist. The team also provide support and training to teaching and care staff.
64. The therapeutic team offers direct intervention to young people who are able to engage with therapy, either timetabled into the school day or made available after school. All managers and a high percentage of other staff are trained to Level 1 in Dyadic Developmental Psychotherapy (DDP).
65. School A has a highly individualised package of therapeutic and educational support (R341).
66. All staff are trained in CALM restraint and safe holding, and de-escalation techniques (Witness A).
67. Most pupils at school A go on to further education, employment or supported placements.
68. School A has facilities, staffing and curriculum appropriate to meet the child's additional support needs (R345).
69. The fees for a day place at school A are £43,485 per annum.

### *School B*

70. School B is a specialist educational provision managed by the respondent.
71. School B has a roll of 54 pupils, due to increase to 60 in 2023/2024 session.
72. Additional support needs of learners are primarily associated with social, emotional and behavioural needs.
73. School B includes a broad spectrum of learners who may also have challenges stemming from attachment disorder or trauma, which may be further complicated by a range of factors including socioeconomic challenges.

74. School B is a trauma informed school and uses strategies including clear boundaries, routines and structure across the school, small group, small class settings, individualised timetabling, visual supports, targeted 1:1 support, break-out pods, outdoor space and a nurture base (R343).
75. Restorative practice is embedded throughout the practice of school B. All staff are trained in nurturing approaches along with career long professional learning on various aspects of child development.
76. Staff at school B are not trained in physical intervention techniques and do not use physical restraint. The police are called to intervene and manage situations when necessary. The last occasion on which the police were called to the school was in December 2022.
77. The senior leadership team at school B and guidance staff work closely with the school's link police officer.
78. The senior leadership team and guidance staff at school B work collaboratively with agencies such as child and adolescent mental health service (CAMHS) or other health partners.
79. At school B there are always three behaviour assistants and at least one senior manager on duty.
80. Many pupils take part in a Broad General Education (BGE) until S3, and tend to sit National 3 or 4 Qualifications, but there are options for more advanced qualifications including links with other schools and colleges.
81. School B has close ties with the respondent's psychological services who can advise staff on the curriculum and meeting pupils' needs.
82. In S2, where the child would be placed, there is a maximum of 6 children in each class supported by a staff team of 2 - a class teacher and a pupil support assistant.
83. The school operates a pod model which is not dissimilar to a primary school experience with teaching pods between two classrooms used for one-to-one support opportunities or to reduce environmental stresses or triggers. There are also small group lessons with the support for learning teacher.
84. School B does not have an onsite psychologist.
85. School B has a new headteacher (witness H) who is working on a 3-to-5-year plan of improvements, including the school environment.
86. A counsellor attends school B one day per week, paid for out of the school's budget. She offers cognitive behaviour therapy (CBT) and 'tapping'. She is available for 5 individual



sessions each week. There is currently a waiting list of 3 pupils and the 5 sessions each week are full.

87. The provisional costs of transport to school are roughly equal whether the child attends school A or school B.

88. The child may require external provision including counsellor support, music instruction and a higher ratio of staff to pupils at school B to meet his needs. The cost of this extra provision is unknown.

### **Reasons for the Decision**

89. Parties are agreed that the child has additional support needs in terms of section 1 of the 2004 Act. We are satisfied that this is the case.

90. The respondent's refusal to grant the placing request is based on two grounds of refusal in schedule 2, namely 3(1)(d) and 3(1)(f).

91. The onus of proof lies with the respondent.

92. The assessment point is at the time of the hearing.

93. Even if one or both of the grounds of refusal exist at the time of the hearing, we still have to consider whether it is appropriate in all the circumstances to confirm the decision (section 19(4A)(a)(ii) of the 2004 Act.

*Ground 3(1)(d) If, where the specified school is a school mentioned in paragraph 2(2)(a) or (b), the child does not have additional support needs requiring the education or special facilities normally provided at that school.*

94. Ground for refusal 3(1)(d) does not apply in this case.

95. We heard no evidence to establish that this ground for refusal exists. Additionally, witness I was not asked to consider the applicability or otherwise of the ground when providing written reasons for the refusal.

96. The respondent relied upon an argument that the child would not be typical of the cohort at school A, many of whom are care experienced, are residential pupils, and are 'higher tariff' (witness A). We do not accept that argument. The evidence of witness A and witness B was clear that each pupil is unique and that they had identified several appropriate peers with whom the child would have the opportunity to develop friendships. There is no typical child at school A, as they have a wide range of complex needs (paragraph 58), but

many pupils require a therapeutic teaching environment to learn due to trauma they have experienced, like the child.

97. School A is a special school, the managers of which are willing to admit the child, and the child has additional support needs requiring the education or special facilities normally provided at that school. This is confirmed in the respondent's comparative report (R345 upon which the respondent relied) which confirms that school A has facilities, staffing and malleable curriculum appropriate for the child's additional support needs.

*Ground 3(1)(f)*

98. For this ground to be established, the respondent must satisfy us that all four of the conditions in 3(1)(f)(i) to (iv) apply to the facts of this case.

*Paragraph 3(1)(f)(i) The specified school is not a public school*

99. School A is not a public school and accordingly this condition applies.

*Paragraph 3(1)(f)(ii) The authority are able to make provision for the ASN of the child in a school other than the specified school (school A)*

100. This paragraph requires that the respondent is able to make provision for the child's ASN in a school other than the specified school, in this case school A. We are not satisfied that school B, which the respondent has identified as suitable for the child, can make provision for the child's ASN. Accordingly, this condition of the ground of refusal is not met.

101. The respondent's own educational psychologist stated that the child would benefit from a bespoke package of support including both educational and therapeutic interventions (R133). We conclude that onsite full-time therapeutic support and an embedded therapeutic approach is only available at school A.

102. The provision at school B does not provide an embedded therapeutic approach, which is necessary for the child to engage in learning and education directed to his development, talents and mental and physical abilities to allow him to reach his fullest potential.

103. It is imperative that the child is placed in a therapeutic school environment to build and boost his wellbeing, self-esteem and capabilities. He needs ongoing support to self-regulate and needs to be scaffolded by professionals with a clear understanding of the complexity of his needs (R115). We find that this level of necessary support is not available to the child at school B.

104. We noted that staff at school B are not trained in physical restraint techniques, and the police are called to intervene, when necessary, at school. Given the child's trauma associated with previous traumatic experiences of school including exclusion, his view that school B is like prison and that being there would feel like a punishment, placing the child there is unlikely to be beneficial or enable him to engage positively in education to fulfil his potential.

105. The child has much potential and is well supported by his family in educational, musical and outdoor pursuits. He wants to learn alongside peers, which he could do in a properly supported educational environment which meets his needs. We conclude that the respondent is not able to make provision for the additional support needs of the child in a school other than the specified school (school A). Accordingly, this condition of the ground of refusal does not apply.

*Paragraph 3(1)(f)(iii) It is not reasonable, having regard both to the respective suitability and to the respective cost of the provision for the ASN of the child in the specified school (school A) and the school identified as suitable by the respondent (school B) to place the child in the specified school*

106. We find that it is reasonable, having regard both to the respective suitability and to the respective cost (including necessary incidental expenses) of the provision for the additional support needs of the child in school A and in school B, to place the child in school A. Accordingly this condition of the ground of refusal does not apply.

### **Respective suitability**

107. It is a matter of agreement between the parties that the child has significant behavioural issues which impact on his ability to form relationships with teachers and to learn in a traditional class environment. His early school years have resulted in a general negative attitude and lack of trust about school that is deep rooted and requires extremely trusted adult supervision. He has experienced significant trauma and requires a therapeutic approach to his education (T045).

108. The child's psychotherapist provided evidence that the child's feelings of fear and being out of control are still triggered in a school environment. These underlying feelings require a therapeutic school environment and consistent relationships for trust to be built before learning can fully take place (A033 and A044). This evidence was unchallenged, and we accept it.

109. School A's facilities and education programme is well placed to meet the child's specific and complex needs through small class sizes, a smaller contained educational environment, a high staffing ratio, staff training and continuing professional development attuned to the complex additional support needs of pupils in the school, and a dedicated onsite therapeutic team who offer direct support to staff, young people and their families.

110. The appellant and his wife visited several provisions including school B. Their hope is that with immediate support the child could, in time, reintegrate into mainstream schooling. The therapeutic aspect of school A is essential to ensure the child receives support to enable him to learn and engage in education consistently. He has missed the social aspect of school education while being home schooled. This essential therapeutic aspect of education provision is not available at school B. Individual therapy is limited at School B and the staff there are not all trained in CALM techniques.

111. The respondent's educational psychologist, concluded that it was imperative that a therapeutic approach is woven through the child's school experience to bolster his wellbeing, self-esteem and capabilities (R115). The child has much potential and with 'key educational therapeutic supports in place we can get it right for him' (R115). We conclude that such support is only available at school A.

112. The comparative report between schools A and B, written by the respondent's educational psychologist, is limited to listing their respective features and facilities and similarities (R345). No evaluative or comparative exercise is undertaken in relation to the child's needs. No account appears to have been taken of the respondent's educational psychologist own report, which emphasises that the child needs a therapeutic approach woven into his education (R115).

113. The reasons for refusing the placing request focus on other outside agencies rather than on the education provided within school B (R353) and no reference is made to the child's needs.

114. Overall, we formed the view on the evidence that school A is the most suitable school in which the child should be educated because of its embedded therapeutic approach to providing education.

115. We heard detailed evidence about the education provision at school A. Both parties referred to documents, particularly R309 and R307, detailing the philosophy underpinning service delivery at school A and its therapeutic services.

116. The appellant and the child's mother provided a joint witness statement confirming the history of the child's experience at school, which was not contested. They appeared open to considering all education provision suggested and decided to request a place at school A having considered it carefully in comparison to other suggestions. They know their son best and were firmly of the view that school A best meets his needs.

117. The child attended the tribunal and provided us directly with his views. He has good insight into the impact of his dysregulated behaviour at school and the effect that it has on his education. He impressed us as being a boy who wants to be at school, to learn alongside peers and to do his best. He told us he wants to be a pilot. He is clever and articulate. He understands that he needs support to help regulate his emotions and responses, and to be

able to achieve his ambitions. He thought it most likely that he would feel safe and be able to learn at school A.

118. The specific nature of the support which could be provided to the child at school B was unspecified, but the respondent's witnesses referred to bringing in external provision if required.

119. Therapeutic support at school B may be provided by a visiting counsellor, but the nature of her qualifications was not evidenced, and the value of her involvement with the child was unclear.

120. This counselling support at school B, if appropriate or available, would be limited to a session each week, and there is a waiting list for appointments. This did not appear to us to meet the child's needs for an embedded therapeutic approach in his education provision.

121. Witness I dismissed the therapeutic provision at school A on the basis that there was no evidence that the child had benefited from one-to-one psychotherapy with witness E. It was his position that this therapy may have allowed the child to gain insight into issues and to feel remorse, but his view was that it had not enabled the child to alter his behaviour or his language. Witness I was not convinced it was the right approach for the child, and he deduced the child may be resistant to talking therapies. He acknowledged that he was speculating about this. We do not accept his view as the child himself advised us that he likes having someone to talk to 1:1 as it helps him to talk about issues he cannot easily discuss with his parents. Additionally, witness I stated that he did not consider individual therapy as being equivalent to a therapeutic environment: whether the child benefits from the former therefore has little bearing on whether he may benefit from the latter.

122. In considering the placing request, witness I took account of the information available regarding school A and spoke to witness A. He also considered the educational psychologist report and all paperwork available to the EPG meeting including R338, R345, R3113 and R115. He did not ask the respondent's educational psychologist, who works in his team, or the child's parents what they understood was meant by "a therapeutic approach". We conclude that had he done so, he may have had a greater understanding of school A and the benefit to the child of its approach, which would have enabled a fairer consideration of the respective suitability of the two schools in relation to the child's needs.

123. We conclude on the evidence that to enable the child to access school education directed to the development of his personality, talents and mental and physical abilities to his fullest potential, the child needs to be educated in a therapeutic environment, as recommended by the respondent's own educational psychologist (R115).

124. The child requires a carefully managed and enhanced transition into any educational provision, enabling him to develop trusted relationships with key members of staff (R345).

125. School A's approach to transition demonstrates that an enhanced transition would be carefully managed (R327 to 328).

### **Respective costs**

126. There is no dispute that the fees for the child attending school A are £43,485 per annum.

127. Witness I made it clear in his evidence that the issue of cost is secondary to the issue of suitability. The most important matter, in his view, was to ensure the child is placed in the right educational setting. He advised that he had not made a judgement based on costs.

128. No evidence was provided as to the costs of provision for the child at school B. We heard that to meet the child's needs, a counsellor may be required and a music instructor. The cost of same was not specified by the respondent. Likewise, the child may require a higher ratio of staff and external supports. Witness H referred to targeted 1:1 support (R352). No cost for this was provided by the respondent.

129. We do not accept the respondent's argument that there is no cost to the proposed provision at school B.

130. The child lives approximately equidistant from both schools. No evidence was provided by any witnesses attending the tribunal in relation to the cost of such transport. Information in an email lodged at R347 was not spoken to by any witness nor was it a matter of agreement. We are accordingly without evidence as to the costs of transport to either provision to enable a comparison of the respective costs.

131. The respondent requires to satisfy us as to the cost of provision of additional support for the child at school B, as well as any incidental costs.

132. We were referred to *Slough Borough Council vs Sendist 2010 EWCA CIV 668*:

Every element of a maintained school carries a cost in public funds. The recurrent exercise for tribunals is to calculate what it is because it is ordinarily only with such a calculation that the protection of public money to which the condition in Section 9 is directed becomes possible. If it were not so, a like for like comparison between public and private provision could never be made.

We agree that is the correct approach. We conclude that the specialist provision at School B cannot be cost free to the respondent.

133. We also followed *EH v Kent County Council 2011 EWCA CIV 709*:

(the question) whether placing a child at a particular school would cause unreasonable public expenditure should be approached by the first tier tribunal in a common sense

manner. Fancy accountancy foot work which produces an unrealistic result - whether an excessive figure based on global costs including fixed costs, or a cost-free placement - is unlikely to be persuasive before the first-tier tribunal.

We are guided by this decision.

134. We also rely on *M v Aberdeenshire Council* SLT (Sh Ct) 126 to which we were referred by the appellant as follows (para 55)

The issue of costs can only be determined by evidence, and the onus of establishing all of the four conditions lies with the defenders.

135. We do not accept the respondent's submission that *SM Appellant 2006 CS0H 201* supports his position that it is sufficient for the respondent to submit that the cost to the respondent of placing the child at school B is nil. Evidence about potential additional resources was not supported by any evidence about the costs that would be incurred. We agree with the appellant's submission that it is not credible that there is no cost at all to the respondent for placing the child in a special school managed by them.

136. In the absence of any evidence led by the respondent as to the costs of the provision at school B, there is no basis on which we can be satisfied that the condition in 3(1)(f)(iii) has been met.

*Paragraph 3(1)(f)(iv)\_The authority have offered to place the child in the school identified by them as suitable for the child (school B)*

137. The respondent has offered to place the child in school B which is not disputed. This condition of the ground of refusal therefore applies.

*Conclusion on the ground of refusal 3(1)(f)*

138. The respondent has not satisfied us that all four constituent conditions of the ground of refusal are met on the facts of this case.

### **Appropriateness**

139. Having concluded that the grounds for refusal of the placing request have not been established by the respondent, upon whom the onus of proof falls, we do not need to consider the second stage of appropriateness in all of the circumstances.

140. Accordingly, we overturn the respondent's decision to refuse the placing request and we require the respondent to place the child at school A with immediate effect or by such other date as the parties agree.