

Health and Education Chamber
First-tier Tribunal for Scotland



Additional Support Needs

DECISION OF THE TRIBUNAL

FTS/HEC/AR/24/0016

Witness List:

Witnesses for Appellant:

Deputy Head Teacher school C (witness D)

The appellant

Witnesses for Respondent:

Educational Psychologist (witness A)

Head Teacher school A (witness B)

Deputy Head Teacher school B (witness C)

Reference

1. This is a placing request reference, lodged with the Tribunal in February 2024. The appellant asks the tribunal to require the respondent to place the child in the school specified in the placing request (school C).

Decision

2. We overturn the decision of the respondent and require the respondent to place the child in the school specified in the placing request within two weeks of the date of this decision or such other date as the parties agree; in terms of section 19(4A)(b)(i) of the Education (Additional Support for Learning) (Scotland) Act 2004 (the 2004 Act).

Process

3. A hearing took place at Glasgow Tribunals Centre over two days. Before the hearing, instructions were issued to manage the hearing and pre-hearing processes. Witness

statements, a joint minute of agreed facts [T073-075] and outline written submissions were prepared. Adjusted and final written submissions were lodged after the oral evidence had been heard. An independent (non-instructed) advocacy report was also lodged [T069-072].

4. Before reaching our decision we considered the oral and written evidence and written submissions found in the bundle numbered T001-075, A001-093 and R001-141.
5. A preliminary matter was raised by the appellant. Parties were in agreement that the issue should be dealt with at the conclusion of evidence.
6. The child was able to attend the first day of the hearing. At the request of the appellant (and not opposed by the respondent), the child had a brief informal meeting with the tribunal members which lasted about five minutes. The main issue was not discussed with the child.
7. The child had provided some views in the advocacy report at T071, where she described school A with facial expression picture cards as 'bored' and said 'grouchy' when asked about the school.
8. With regard to school B, which the child refers to as the 'bus school', the child said. 'Bus school. [Child] is scared. Bus is going to leave – sorry bus – bye bye. [Child] is feared.'

Findings in Fact

General Findings

9. The appellant is the mother of the child. The child lives with her parents, her younger sister and her older sister in the family home.
10. The child at the conclusion of the evidence was seven years old.
11. The child has Autism Spectrum Disorder (ASD), a genetic condition, global developmental delay, a sensory processing disorder, and is under assessment for a learning disability. **[Part of this paragraph has been removed by the Chamber President to maintain privacy under rule 55(3)((b)(c) and (4) of the First-Tier Tribunal for Scotland Health and Education Chamber Rules of Procedure 2018 (schedule to SSI 2017/366)]**
12. The child can communicate to make her needs known using words and gestures. Her expressive language mostly consists of one or two word phrases. She can sometimes repeat longer phrases, but these are typically learnt phrases and lack communicative intent (R026).

13. The child is currently working within the Early Level of the Curriculum for Excellence (CfE). Typically, pupils achieve Early Level by the end of their Primary 1 year, which means that the child is working at an earlier level and pace than that of her mainstream peers, and she has needed individualised learning targets since Primary 1 (R075). Within numeracy, while she is working within Early Level for some aspects of mathematics (e.g., shape), in other areas such as understanding number she is at a much earlier stage. The pre-early level milestones have been more appropriate in supporting target setting (R026).
14. She can become distressed when not able to follow her own plans or when there are unexpected changes to her routine. This can lead to physical behaviour towards others. The child needs significant support with transitions throughout the day and benefits from visual supports such as countdowns and now/next symbol strip to support her to move from one activity to another (R027).
15. The child appears to have a sensory sensitivity to noise and regularly withdraws to a cloakroom area when the classroom is busy. She can be easily distracted, particularly if there is a lot of background noise. Regular sensory input is important to help the child manage her emotions. A sensory plan is in place with regular activities to support her emotional regulation throughout the day (R027).
16. The child gets a great deal of sensory feedback from jumping, bouncing and spinning. She is a keen and accomplished swimmer.
17. An assertive approach is required with the child when communicating boundaries. It is important that the child is not over-assisted as this can be detrimental to her independence and resilience (R099).
18. The child works well when there is a routine and structure in place (R100).
19. It is important to ensure that the child's learning tasks are motivating and active to support her engagement (R097).
20. The child is very creative, and engages best when learning opportunities are active and tailored to her interests. This requires careful attention and encouragement by an adult.
21. The child's engagement in learning can be variable and she can struggle to follow an agenda other than her own. This has affected her progress towards curricular benchmarks and the assessment of her skills at school (R075).
22. Strategies such as disguising demands, providing choices, incorporating her interests, and learning through play have been used with success to help the child to engage in planned learning activities.

23. She benefits from having an individualised workspace and short bursts of focused learning time, followed by movement and sensory activities to support her readiness for learning. She can typically attend to a task for 5–10 minutes; however her ability to focus is enhanced if it is an especially motivating activity.
24. The child needs prompting to help her to follow instructions and she can struggle to maintain sustained attention in the afternoons. She benefits from practical, hands-on activities such as baking to end her school-day.
25. Since she started in Primary 1, the child's additional support needs have been managed through regular child planning meetings and a Child's Plan.
26. A Child's Plan records the outcomes identified for a child who has additional support needs and the actions needed to meet related targets and goals.
27. The child was enrolled full time at school A from Primary 1 (August 2021) up until and including December 2023.
28. The team involved with the child including her parents noted concerns that she was struggling with attending full-time at school A, and was becoming more isolated. The child was continuing to seek to withdraw from the classroom, was not seeking peer interactions, her engagement in learning continued to be mainly on her own terms and her academic progress had been slow.
29. In October 2023, it was agreed by the team, including the child's parents, that her overall needs would be best met by a split placement between school A and a specialist additional support class (ASC) at school B. An application for this split placement was agreed by the Area Management Group (AMG). This group is a local decision-making forum for specialist placements.
30. The child began attending school B ASC for three days a week in January 2024. The smaller, more specialist ASC environment complemented the child's existing mainstream package in school A by supporting her emotional regulation, providing an opportunity for socialisation with peers who had similar needs, and an appropriate curriculum focused on reinforcement of core literacy/numeracy and life skills. The school B ASC provided a total communication environment where visuals, symbols, sign, and other alternative communication methods were used.
31. From mid-January 2024, the child was attending school B three days a week (Monday to Wednesday) and school A two days a week (Thursday and Friday) until the end of the school term at the start of April 2024.
32. After the school holidays, in April 2024, the child did not return to school B. She has not resumed her education there since.

33. The child shared that she was scared to return to school B because there had been hair pulling in her class. The child witnessed her friend having her hair pulled by another pupil. She has experienced a strong emotional reaction as a consequence.
34. At this time, the child became very distressed at home, including when approaching the building of school B.
35. A Planning Meeting took place in May 2024. For the two weeks prior to that date the child had been very dysregulated at home, including wetting the bed on the Sunday night, and becoming more obsessive with food.
36. Various supports were explored to help the child return to the ASC at school B. This included parents bringing the child to school rather than arriving by taxi, messages home to highlight activities of interest which would be happening in class, using visuals to support predictability for the child, and opportunities to engage in community learning opportunities instead of going into the school building.
37. The child did join her class from school B in the community, for a café visit, in April 2024.
38. The appellant brought the child to visit school B for an after-school visit with the appellant in April 2024. During this visit, the child was reluctant to get out of the car and was distressed. She articulated that she was scared but was not able to share what she feared or explain why (R087).
39. In May 2024 the child would not get out of the car when she was due to meet her class at the café.
40. In June 2024 a planned swimming lesson was cancelled. The child was taken instead by her pupil support assistant (PSA) to school B in a taxi. A motivational activity to engage the child was put in place for her to pick up trolls and put them into a basket to encourage her into the school B building. It was emphasised to the child that she would be returning to school A for her lunch. She spent some time in a classroom, and also outside in the outdoor area with some of her peers.
41. The child currently attends school A, five days per week. She has done so since May 2024.
42. She continues to attend swimming with school B pupils, and enjoys this.
43. Witness C visits the child each Monday at school A, to provide an ongoing link with school B.
44. The child has online calls with witness A and her friend T from school B while she is at school A.

45. The child has received input from an NHS Speech and Language Therapist (SALT) historically. She was discharged from their services, when she was in P1 after it was deemed by them that she no longer required this input.
46. In around September 2023 the appellant engaged a private SALT.
47. A re-referral to NHS SALT was made by witness C in May 2024. The referral has been accepted. She remains on the waiting list.
48. In school B witness C has a link to a SALT to support classes.
49. The respondent is responsible for the child's school education.
50. In or around October 2023, the appellant submitted a placing request to the respondent, requesting that the child be placed at school C.
51. At the end of October 2023, the managers of school C said that they were willing to accept the child as a pupil.
52. In January 2024, the respondent wrote to the appellant, refusing the placing request.
53. The respondent maintains that it is able to make provision for the child in a split placement between both school A and school B ASC.

Findings on school A and the child

54. School A is a mainstream school.
55. The language rich environment and positive social role modeling within a mainstream primary classroom is of benefit to the child.
56. The child is based in the main classroom with other peers when she is at school A but she sometimes takes herself away from the class when it is noisy. In the main classroom the child sits at her own table with her PSA, either sideways on to her class peers or with her back to them. The child chooses which way she wishes to sit.
57. One space that the child, and other pupils, can use is a breakout area within her classroom, known as, 'The Garden Room'.
58. The Garden Room was previously in use as a storage cupboard and has no windows.
59. When the child is in the Garden Room, she is still able to do work that has been set by the class teacher.

60. There is a PSA who sits with the child to assist her, as standard practice throughout her school day in school A.
61. The child's private SALT has consulted with her teachers at school A.
62. The Autism Spectrum Information Support Team (ASIST) currently provide indirect support to school A and professional indirect support from the Developing Language Team is involved in ensuring the plan around the child is robust. A referral to the ASIST technology team has been made to review the technology available to her in both schools in her split placement to ensure it meets her needs or if this can be enhanced further.
63. When the child was in Primary 2, advice from the ASIST team recommended that the child would benefit from help with her sensory needs. Advice was provided regarding jumping, and bouncing and guidance provided regarding equipment such as yoga balls and smaller items such as baking and play-doh.
64. The estimated cost for a pupil attending school A full time is £7,858 – 2 days a week would be estimated at £3,143 (R012).
65. There are no transport costs to school A.

Findings on school B and the child

66. School B provides a specialist provision, specifically an ASC. An ASC is a small supported class, with no more than 10 children which offers an individualised curriculum focused on applied learning opportunities and life skills. The staff-to-pupil ratio is 3:9.
67. School B provides a total communication environment which is tailored to the communication needs of pupils. Regular community-based learning experiences, such as swimming, are a core curricular component (R095).
68. Within her ASC class the child has access to a small group, and a visualised learning environment; and in the past the child has benefited from personalised learning tasks that are tailored to her interests.
69. Staff in the ASC are experienced and skilled in supporting children to use Augmentative and Alternative Communication (AAC) devices such as Proloquo. They are skilled in the use of total communication and intensive interaction approaches.
70. Within school B's ASC, there is increased opportunity for the child to engage in a variety of motivating, active learning experiences alongside her peers, as well as a curriculum focused on the reinforcement of core literacy and number skills in addition to developing her skills for life. Her cohort in the ASC provides the child with an appropriate peer group.
71. She also benefits from regular access to the ASC's sensory room (R078).

72. There is a link to the SALT to support the class teacher either face-to-face, or via e-mail, or Microsoft Teams. The SALT role is to support and advise staff across the department.
73. The estimated cost for a pupil attending school B's ASC full time is £19,421 – 3 days a week would be estimated at £11,653 (R012).
74. The cost of transport to school B by taxi from the child's home address is approx. £2,314 per annum (R013).

Findings on school C and the child

75. School C provides a small group setting with high staff-to-pupil ratio on a small, quiet, rural campus with no bells and no large gatherings of people and groups. Class sizes have a maximum of six pupils.
76. Pupils receive a high level of support to access education and support for their wellbeing, self-esteem and confidence. The curriculum includes therapeutic input. A visual learning environment is provided which benefits young people in supporting their understanding of, and access to, language and information. There is access to speech and language therapy support in school four days per week, to further enhance confidence and social interaction. The dedicated SALT ensures every pupil's individual communication needs are understood, met, and developed. There are opportunities to develop social relationships with appropriate peers with similar challenges (T021).
77. The school environment supports alternative methods of communication and a predictable environment with regular routines and consistent staff. Pupils are provided a choice in activities and engagement through their interests.
78. There is access to a variety of safe and calming spaces for pupils to use at any point throughout the day, including individualised spaces which would allow the child to bounce, jump and spin when required. To negate sensory seeking behaviour the school is proactive in providing sensory activities.
79. Joint planning between the teachers, SALT and learning and wellbeing practitioners provides consistent targeted support.
80. The school offers several activities young people can do within varied spaces that help them relax, such as mindfulness, sensory swing and small rebounding trampolines. School C has an on-site swimming pool. The child will have access to the pool for one session per week from a qualified swimming teacher.
81. The cost for a full time placement at school C is £39,700 per annum. The cost of transport to school C for the child (without travel escort) is approx. £22,800 per annum.

Reasons for the Decision

82. The parties agree that the child has additional support needs, as defined in section 1 of the 2004 Act. We agree, as supported by our findings in fact at paragraphs 11-23 above.
83. The appropriate point in time for consideration of the evidence is at the date of the hearing: the law is clear on this. The burden of establishing that the respondent's decision should be confirmed falls on the respondent.

The Preliminary Matter

Position of the Appellant on the preliminary matter

84. The appellant states that the respondent has offered to place the child in a split placement between school A and school B's ASC. It is argued that this does not meet the requirements of the 2004 Act (3(1)(f)(ii) or (iv)) which require the nomination of a single school placement by the authority. The appellant does not argue that a split placement is not a legitimate form of education, nor that it cannot competently be offered or provided by an education authority, simply that it does not meet the specific requirements of a single ground of refusal, upon which the education authority has chosen to rely in this case.

Position of the Respondent on the preliminary matter

85. The respondent argues that Paragraphs 3(1)(f)(ii) and (iv), which relate to the placement which must have been offered by the local authority in order to satisfy this ground of refusal, simply refer to the local authority making provision for the additional support needs of the child in a school other than the specified school.
86. It is therefore necessary to turn to the definition of "school". Section 29 (2) of the 2004 Act provides that the expression "school" has the meaning given in section 135(1) of the Education (Scotland) Act 1980 ("the 1980 Act").
87. The definition of school therefore clearly indicates that it is not restricted to just one school.
88. Additionally, the Interpretation Act 1978 s6(c) adds weight to the position that the local authority are not restricted to offering a placement at a single school.
89. The tribunal accepts the arguments advanced by the respondent on the preliminary matter.

General remarks on the oral evidence

90. Witness A had concerns about the child's age in the class proposed in school C, where she would be the youngest by two years and in a class where only one peer is verbal. She felt this could lead to isolation and negatively impact her wellbeing. She suggested that the journey to school C would be tiring, as it is a significantly longer commute, and would limit opportunities for the child to be part of her local community, and retain connections with her peers. Witness A was asked about what was envisaged would happen from August 2024, and whether the child would attend school B for three days per week. She was unable to give an answer to that, and was of the view that future plans would need to be discussed at a 'Team Around the Child Meeting', also known as a child planning meeting. She was unable to comment on when that meeting would take place. Witness A was in agreement that speech and language therapy is a key area to target.
91. Witness B gave evidence that while in school A, the child spent 78% of her time in class with her peers. This figure however included tracking time for break and lunch. If the child elected to stay in the school during the lunch break, this would not be recorded as peer time. If she chose to stay inside with one other peer, this would be recorded as peer time. If she remained in class working at her own desk with her PSA this would be recorded as peer time. The figures were therefore somewhat artificial. What was clear from her evidence was that for at least 12 % of the time, she was not with her peers and during some of that time, she used the medical room because she enjoys the cool sensory sensation of the plastic bed.
92. Witness C agreed that language and communication is the 'gateway' to the child's success. She said that the child loves transport and enjoys being in a taxi and a bus. She has not found the taxi distressing in any way. She said that the link SALT attends school B's ASC on average once per month in which she visits all 3 classes in an observing and advising capacity, and that the SALT can only be involved with the child on a no-named basis as the child does not currently have an ongoing file. She agreed that the waiting list for the child to be seen by a SALT would take approximately 18 months.
93. Witness D, although she had spent comparatively less individual time with the child, was involved in the child's assessment and able to give strong evidence about the comprehensive package available for the child in school C. She shared that the child had loved jumping on the trampoline, swinging in the hammock seat and sitting in the swing seat outside in school C.
94. We found the evidence of the appellant compelling. It was clear that she had queried the need for specialist provision for the child (R094) prior to the child commencing her first year of schooling. She accepted this in her oral evidence. She accepted that she stood corrected in her thinking that a specialist provision would have been appropriate for the child from P1. She accepted that in P1 at school A the child had 'flourished'. She accepted many positives in the child's education to date and was not dismissive of the attempts that had been made to provide for her additional support needs. For example

she accepted that the child enjoys a very good relationship with one of her PSAs who she referred to as the child's 'Guardian Angel', and described her as 'phenomenal'. Her evidence was that the child has attended school C on 3 occasions. The child was bouncing on her seat, and said, 'Wow'. When she was asked about the class composition in school C the appellant commented that with neuro-divergent individuals that age is not always relevant. Being with children the same age can hinder the child and it is better not to be the only person in the room with additional needs. When the child saw the sensory room in school C she asked if everyone could leave so she could have a sleep. When the child has been to a lot of different places the family see the 'burn-out' at home with the child trying to cope with the various transitions. In relation to the child's recent visit to school B she said that she accepted this was positive but she would be interested to see how that could work without the PSA being present. She queried how the respondent would persuade the child to get into the taxi without the safety net of returning to school A.

95. The respondent's refusal of the placing request is based solely on schedule 2, paragraph 3(1) (f) of the 2004 Act. If we find that the ground of refusal exists we must then go on to consider whether in all the circumstances it is appropriate to confirm the respondent's decision (section 19(4)(a)(ii) of the 2004 Act).

The ground of refusal: respective cost and suitability

96. The respondent argued that one ground of refusal of the placing request exists. The ground in question is found in the 2004 Act, Schedule 2, paragraph 3(1) (f). That ground has four component parts. In order to conclude that the ground of refusal exists, we must be satisfied that all four parts of the ground of refusal apply.
97. The parties agree that two of the four parts of the ground of refusal apply. These are: (a) that school B is not a public school (Schedule 2, paragraph 3(1)(f)(i)); and (b) that the respondent has offered the child a place in school A (Schedule 2, paragraph 3(f)(ii)). It is clear from the evidence that these two parts of the ground of refusal apply. We will now turn to the remaining two parts. The application of these parts are in dispute between the parties.

The ability of the respondent to make provision for the additional support needs of the child in school A (2004 Act Schedule 2, paragraph 3(1)(f)(ii))

98. The appellant argues that the respondent is not able make provision for the additional support needs of the child in school A. The respondent argues that it is so able. We prefer the appellant's position.
99. The respondent has agreed that the package of education with a split placement is the school(s) where the respondent feels that the education authority can best provide what meets the needs for the child. The ASC in school B is an integral part of providing the appropriate curriculum, environment, peer group and reinforcement of learning that the

child needs. Many of the range of support and interventions for the child are in the ASC setting which she is not attending. It is recognised that this is additional support which the child needs (R0270). The fact of the matter is that the child is simply not receiving this additional support which it has been determined that she needs. The child has indicated very strongly that she does not want to return to school B. She has made her views very clear in the only way that she can express her views. The child can communicate her happiness, interest, contentment, unhappiness, and distress with her experiences through her behaviours, and these can be used to infer her views (R079-80).

100. The child's family and those professionals involved in the child planning meetings have listened to the child and as a consequence she is not attending school B. Apart from on the most recent occasion, the child exhibited high levels of distress when attempts have been made to re-introduce her to school B, including banging her head against a dashboard. The consultant community paediatrician, in a letter to the child's GP dated April 2024, states that the reason the child is struggling to attend school B is due to her sensory profile (R123). The respondent has acknowledged the child's position, and has allowed her to progress at her own pace. There is no end point to the current situation. There are no certain plans regarding the child returning to school B to complete her primary school education. She did not attend for the whole of last term. There is no clear time-table for that to happen. An artificial situation was created for one singular visit which could not be replicated on a daily basis. The child's view is not determinative; it is a factor to be taken into account.
101. While we believe that witnesses A, B and C and the appellant and respondent would try to support the child to return to school B, we are not persuaded that there is a real prospect of success. The argument that it might, is speculative. It is obvious that in order for the respondent to meet the additional support needs of the child at school in the split placement, they will have to succeed in persuading her to attend. We are not convinced that they will manage to do so. On this basis alone, this part of the ground of refusal does not apply. We stress that this is not just about the child's view; our conclusion is based on the strength of the child's view, the fact that she has not attended school B ASC for a whole school term, and a lack of evidence showing that persuading her to return will be effective. The respondent bears the burden of proof, but has failed to reach it.
102. We accepted the appellant's position that the child and her family live in a small village and are a large part of the community, where the child is known for who she is. We accept the child will not lose her community links in attending school C. She will remain part of the disability swimming group and the appellant will work hard to maintain the child's relationship with her friend in school B. Her evidence was that the child at times finds the language rich environment of school A to be sometimes overwhelming. The appellant has been told that an anticipated SALT individual intervention will take 18-24 months from the time of referral (May 2024).

Reasonableness of placing the child in school B having regard to respective suitability and respective cost (2004 Act Schedule 2, paragraph 3(1)(f)(iii)).

103. Given our conclusion that the part of the ground of refusal in paragraph 3(1)(f)(ii) of Schedule 2 of the 2004 Act does not apply (paragraphs 103-6 above), we do not need to address the part in paragraph 3(1)(f)(iii) of that schedule. This is the part that involves a comparison between the split placement at school(s) A/B with school C on suitability to meet the child's additional support needs, and on the cost of doing so, against an overall reasonableness test. Since this part of the ground of refusal was argued, we will state our views, in brief.
104. On respective suitability, it is clear to us that in a number of important respects, school C is more suitable than school A and B for providing for the child's additional support needs.
105. With the current split placement proposed by the respondent, in school A the child is benefiting from a language rich environment, which is a positive aspect for the child across the whole educational package. She is however, on the periphery of the class, often outwith the main classroom. She is not working alongside her peers. She is working on a markedly different curriculum. There is no one else that the child sees as being like her. She is experiencing growing elements of social isolation from her peer group without the balance of the provision at school B ASC which is impacting on her social wellbeing. If all other aspects of the package were in place this may be positive, but without the input at school B, the benefit of school A is outweighed by the fact that the child is not attending the other essential part of the package at school B.
106. The tribunal felt that the measuring of the child's time with peers in school A was not an accurate reflection of the child's genuine social interactions as detailed in paragraph 91 above.
107. The child's sensory needs are not being met. Without the balance of school B ASC provision, the child is not able to effectively self-regulate and is spending much of her time in a noisy environment. She is doing her best to self-regulate. She would benefit from something to bounce on, instead of lying down on a cool medical bed.
108. If speech and language therapy is the gateway to the child's progress, it is not being targeted at present. The only advice from SALT pending the re-referral process comes from a non-named consultation basis via an advice line. There was limited evidence as to how this had been used to support the child.
109. School C provides a small group setting with high staff-to-pupil ratio that will allow the child to receive a high level of support to access education and support for her wellbeing. She will have access to speech and language therapy support in school four days per week. Working with children of similar abilities and with similar needs will be better for

her sense of belonging. Age is not as important as the commonalities she has with her peer group.

110. Although she will not have as much exposure to verbal communication as she does in school A, she will have access to a wider range of different communication methods.
111. Despite the 45 minute travel in each direction, this can be offset by the fact the child will be in one environment and not two different geographically located schools, which has proven unsettling. It was suggested that the child would enjoy the trips and this was not refuted by anyone.
112. The child will have more options to address her sensory requirements in school C including access to bouncing and swimming. Her child's plan at schools A and B acknowledges the importance of bouncing in meeting her sensory regulation needs, but has failed to provide anything for her to bounce on.
113. School C has a qualified SALT four days per week Monday to Thursday. She has daily input with the young people who require it. She delivers group and individual therapy. She works alongside the class teachers to model best practice with young people. The child will have daily input with specific focus on modeling and expanding her language, working through national and functional scripts and working on her social communication. In the early stages the SALT will get to know the child's processing style to identify how she uses language to meet her own needs. A plan will be developed with the child's parents regarding her therapeutic sessions which will be 30 minutes per day, initially on a 1-1 basis. The SALT is involved in joint planning teaching and wellbeing meetings which take place fortnightly.
114. There are other points of comparison, but those considered above are the main ones. On the other points of comparison, there are no significant differences between the provision that would be available for the child's additional support needs in school(s) A/B and school C, assuming the child was attending both schools in the split placement.
115. On respective cost, the respondent explains that it would cost £62,500 per year (including transport) for the additional support needs of the child to be met at school C. That is not in dispute.
116. Looking at the total cost on a per-pupil basis, the cost of the child attending the split placement between school A and school B is approximately £17,110 per annum.
117. In evidence witnesses B and C said that if they were to look at the additional costs to the schools of having the child attend, these would in fact be negligible. The schools' staffing and equipment costs are not likely to decrease any if the child doesn't attend. Although the child has 1; 1 support from PSAs, if she were not attending school A the total number of PSAs at the school would remain the same – the PSAs would simply support other children instead. Therefore the overall staffing costs would not change at

all. There may be a small difference in terms of the costs of the group taxi to school B if the child happened to be the person in that taxi who lived furthest away, but that is unknown at present, and in any event would be minimal given she shares a taxi with a number of other children. Therefore at least the majority of the cost would remain the same whether or not the child was present.

118. The Respondent accepts that in terms of *S v Edinburgh City Council 2007 Fam. L.R. 2* it was held that dividing the running costs of the school by the number of places was not the correct approach, but it can be helpful nonetheless to have an indication of this figure as it relates to the overall budgets. However the court in that case then went on to say that it is the additional costs to the school which are relevant. In that case, as in the present case, the additional costs would be very small. The evidence was that the school was there and had additional space for the child, and the only additional cost might be extra help or equipment required specifically for the child. In respect of the child in question in this case, these costs are not possible to calculate now as this involves many unknowns and looking into the future.
119. We agree with the respondent's view that information on its overall school budget is not necessary for us to consider the respective cost matter. The correct question is whether the enhanced suitability of school C (as we have found exists) is justified by the additional cost of provision there (see Lord Glennie in *S v Edinburgh City Council 2007 Fam LR 2*, paragraph 23, Outer House, approved by the Inner House in *B v Glasgow City Council 2014 SC 209* at paragraph 19).
120. As in the present case, it was evident that the actual cost was significantly lower than the per-pupil cost which had been provided, and the outer house felt able to have made a determination on that basis, had there not been other separate questions in that case which required it to be remitted.
121. In *M v Aberdeenshire Council 2008 SLT (Sh Ct) 126* , referred to by the appellant, there was evidence that the additional cost of attending the public school would be £8,560, and that there wouldn't be any other additional or marginal costs unless an additional member of staff would have to be employed. The tribunal was content to proceed on this basis. By comparison the cost of the fees at the specified school was either £10,950 or £7,738. Therefore the difference in cost was much more limited than in the present case, may have in fact been lower at the specified school, and was a maximum of £2,390. Although they commented about not having evidence of the budget of the education authority or the school, they were still able to assess that in that case the difference in cost was limited and reach a conclusion on the issue.
122. In the present case, there is sufficient evidence as to the per-pupil budget for the respective schools, and of the very limited actual impact on the budget of the child attending school(s) A and B to allow a conclusion to be reached on the issue.

123. The respondent has failed to establish that it is not reasonable, having regard to respective suitability and the significant cost gap of £45,390 per year, to place the child in school C. That additional cost for school C is justified since, as we conclude above, the evidence suggests that the respondent would be unable to persuade the child to attend school B. This would leave the child with an inadequate educational provision, and would perpetuate the situation that has existed since April 2024. Even if the child would be likely to attend school B, the points of comparison discussed above go to the very heart of the provision required to meet the child's additional support needs. The benefits of the child's attendance at school C justify the additional cost.

124. Since only two of the four parts of the ground of refusal apply, the ground of refusal relied upon by the respondent does not exist. This means that we must overturn the respondent's decision to refuse the placing request and order the respondent to place the child in school C. We have chosen a date in the near future (within two weeks of the issue of this decision), given that the child is due to return to school after the summer holiday break imminently. This may allow the child to engage in a transition process as soon as possible.