



Additional Support Needs

DECISION OF THE TRIBUNAL

FTS/HEC/AR/24/0132

List of witnesses

For the appellant:

The appellant

For the respondent:

Inclusion Manager (witness A)

Head Teacher of school B (witness B)

Educational Psychologist (witness C)

Head Teacher of school A (witness D)

Reference

1. This is a reference by the appellant challenging the respondent's decision to refuse the appellant's request to place the child in school B.

Decision

2. We confirm the decision of the respondent to refuse the appellant's placing request, in accordance with section 19(4A)(a) of the Education (Additional Support for Learning)(Scotland) Act 2004 (**2004 Act**). We therefore do not require the respondent to place the child in school B.

Process

3. The reference was made in June 2024. An online hearing took place over three days, including oral submissions. This was a conjoined hearing, with another reference, on whether a co-ordinated support plan should be made. A separate decision is issued for each reference.

4. We considered all oral and written evidence of all witnesses and all of the written material available. The written material is found in the bundle, which consists of the following page numbering: T001-102; A001-084; and R001-144 (including supplementary written submissions from the respondent).
5. The reference was managed to a hearing in two case management calls. The child was unable to provide her views to the Tribunal. Instead, a non-directed advocacy report was produced on the Tribunal's direction (T053-080).

Findings in Fact

General findings in fact

6. The appellant is the mother of the child. The child lives with her mother and her three older siblings. The child was born in 2019. The child is enrolled as a primary 1 pupil at school A, and has been attending there since August 2024. Prior to attending school A, the child attended the nursery since she was aged 3. The child attended First Steps Playschool for two days per week between August 2023 and summer 2024, as part of an enhanced transition to school A.
7. The appellant made a placing request to the respondent asking that the child is placed in school B. That request was refused in April 2024.
8. In January 2023, the child was diagnosed with global developmental delay. In around September or October 2023, the child was diagnosed with a lifelong genetic condition associated with severe developmental disability. The child does not currently meet the diagnostic criteria for intellectual disability, but this is expected to happen.
9. The child's verbal communication is limited. She is able to use some single words and some phrases. The child is sometimes self-directed and impulse driven. The child requires support with her personal care.
10. The child sometimes puts too much food in her mouth at once, giving rise to a risk of choking.
11. The child can find tasks that involve sharing with others difficult. She also struggles with group work sometimes. She sometimes finds it difficult to maintain concentration on a task.
12. The Schedule of Growing Skills Assessment (**SOGS**) is a developmental screening tool which measures how children are developing in line with their age. The child was tested using SOGS by witness C, educational psychologist, who observed the child and played with her and who also consulted the appellant and education professionals who had contact with the child. The test was completed in December 2023, and the results were reported in an Assessment of Wellbeing and Child's Transition Plan (R006-R021, at R012-013). A variance of 1-2 year age intervals between the child's chronological and developmental stage represents a normal variance. The child is within that variance for locomotor, visual and self-care social skills. The child is three age intervals behind her chronological age for hearing and language skills and interactive social skills. The child is five age intervals behind her chronological age for manipulative, speech and language and cognitive skills.

13. The Behaviour Assessment System Third Addition (**ABAS-3**) is a clinical diagnostic assessment tool used by the National Health Service. It is not an educational assessment tool. In December 2024, the child was most recently assessed using ABAS-3 by a consultant paediatrician. At the point of this assessment, the child was 5 years and 23 days old. For education purposes, the child was found to be at an age of less than 2 years against the following factors: communication, functional pre-academic, health and safety, self-care, self-direction and social. For school living and leisure, she was assessed as being at 2 years and 2 months. For motor skills, the child was assessed as being at the 3 years to 3 years 2 months range.

The child and school A

14. There are 178 pupils on the roll at school A. The child's class has a total of 22 pupils in it (including the child).

15. The child is in primary 1 at school A. The child's class is staffed as follows: one full time class teacher, a part-time class teacher (who teaches in the child's class two days a week), a full-time early years practitioner (the child's key worker in nursery) (**EYP**) and a pupil support worker. This staffing reflects the schools early intervention model and is not a dedicated resource allocated to the child. This funding for this staffing arrangement has, for the most part, been in place since 2020.

16. The child's three older siblings also attend school A.

17. The child is at the Early Level of the Curriculum for Excellence (**CfE**). This level is appropriate for her age and stage. There are some children at school A who are at Early Level of the CfE up to primary 3. The curriculum in primary 1 is largely play based.

18. In addition to her classroom, the child has access to a play room and a sensory room.

19. The play room is opposite the child's classroom. It is similar to the child's classroom, but with a few more play areas, such as a sand tray, home corner, block play area, a small library and tables for small group work. Pupils from primaries 1 and 2 access the play room. The play room can be used for 1:1 teaching support as well as for group work. The child now prefers to go with some of her classmates to the play room and interact there with them. The child no longer requires an adult to facilitate her play.

20. The sensory room was added to school A around five years ago. It has a large fish bubble tube, sensory cables with lights, a sofa, a small teaching table, a large dark tent with sensory toys, a small library stand with books.

21. The child has some time in her timetable four mornings per week in the sensory room. The child's focus on sensory play has reduced since she started in primary 1: she does not rely as much on this, and instead prefers to spend time with her classmates. More recently, the child has sometimes declined, when invited, to go to the sensory room, preferring to remain in her classroom with her peers. The child spends less time in the sensory room than she did earlier in her time at school A.

22. The child requires differentiation of the curriculum due to her support needs. This includes the use of visual cards, object signifiers and signalong (a communication system to help children to learn vocabulary). In addition, specialist communication techniques are used with the child, as outlined in the report by the Speech and Language Therapist (R121-123).

23. The child's engagement in small group tasks has been improving during her time in primary 1: she can now take part in some group work without the EYP being present.
24. The respondent put in place an enhanced transition arrangement for the child for her transition from nursery to primary 1. This plan included:
- a. regular visits to her in her primary 1 classroom from her keyworker from nursery;
 - b. the child's primary 1 class teacher attending the child's nursery class to play with her and other children, to get to know her before she attended primary 1;
 - c. use of social stories, including pictures of the various areas in school A;
 - d. for a six-week period leading up to the end of her time in nursery, the child (along with other pupils) attending her future primary 1 classroom once a week to do an activity with the child's primary 1 class teacher; and
 - e. attending the nursery during the school summer holiday before the child attended primary 1.
25. When she started primary 1 in school A, the child did not say many words and would mostly lead people to what she wanted. The child's speech and language has improved significantly during her time in primary 1. She is now able to say three or four word sentences, using her words consistently and in context. The improvement in her language corresponds with her reduced reliance on signalong. When the child is unable to make herself understood, she leads the child or adult to what she wants.
26. The child interacts much more with peers in her class in school A compared with when she joined primary 1. The child now instigates communication with other children with whom she wishes to play. She knows the names of her peers. She has friendships with a few of the children. The child takes these children by the hand and walks to the dining room with them. The child wants to be with other children when she goes anywhere in the school. She likes to go to the playroom with some of her classmates and play games or engage in activities: this is an improvement since the start of primary 1.
27. The child can find it difficult to engage in a task for a prolonged period. The child's engagement time in class has increased since she started in primary 1: she can now engage in a task for up to 15 minutes alongside her peers. Where the child's engagement in a task reduces, she can easily be re-directed back to the task.
28. The child's independence skills have improved during her time in primary 1. She is aware of school routines and is able to anticipate what is to happen next. At breakfast and lunchtimes, the child is able to fetch and carry her tray and cutlery on her own and to say which food she would like.
29. While the child has no sense of traffic danger, her understanding of safety has improved during her time at primary 1. She now waits for permission from an adult before going from her classroom to the playroom, showing an understanding of the need for adult approval for certain actions.
30. The child enjoys interacting with her siblings at school A. She sits with them at breakfast club at the school every morning. The sibling group play together in the school

playground at break times. They cuddle one another. At the end of the school day, the child's siblings come to her classroom to collect her before all meeting the appellant at the school gate.

31. The child is involved in singing, doing actions along to songs and participating in assemblies. She enjoys singing and dancing along with other pupils at assemblies. She likes to speak and sing into a microphone. Given the child's enjoyment of songs, song signifiers are incorporated into break and transition times. The child played the role of an angel at the school nativity play close to Christmas 2024.
32. The child behaves well at school A. She does not get upset or distressed. Any negative behaviour is minor, is age and stage appropriate and easily resolved by re-direction. The child does not disrupt or distract other children in class.
33. The child is happy and settled at school A.
34. 1:1 support is provided at breakfast club, break time and lunch time, in line with the child's risk assessment (R034-041), in order to reduce the risk of choking by taking in too much food. More recently, the child has stopped doing this, but the support continues.
35. The child's personal care awareness has improved during her time in primary 1.

School B

36. School B is a school for children and young people aged between 5 and 18 years. There are 57 pupils at the primary school stage and 64 pupils at the secondary school stage. There are two primary 1 classes, one with eight pupils in it, the other with seven pupils. The maximum capacity of each primary 1 class is 8.
37. The pupils at school B have a wide range of complex additional support needs. Most of the children are either non-verbal or pre-verbal. All school B pupils have intellectual disabilities that mean that their cognitive abilities are significantly lower than expected for their chronological age. The cognitive age range for school B pupils (with a few exceptions at the secondary school stage) is between 6 and 18 months old. None of the pupils in primary 1 are able to connect an item with what it means, none are able to use symbols.
38. The respondent has designated school B as one of its schools for children with the most severe and complex needs requiring the highest level of support across the respondent's geographical remit.
39. All of the current primary 1 pupils at school B are pre-verbal. Any language used by these pupils is learnt by rote and is not context specific.
40. All activities for primary 1 pupils are adult led. None of the pupils in primary 1 can anticipate the next activity or understand routine. Some pupils in primary 1 struggle to be in small groups with other children. Some pupils require 1:1 support at all times. Opportunities for whole class time in primary 1 are limited due to the individualised support needed for each pupil. This leads to pupils using different parts of the classroom as well as other learning areas within the school.
41. Most of the pupils at school B are working at pre-early level of the CfE with all primary 1-3 children working at foundation milestones level. The foundation milestones are

designed to track progress for those not yet at early level. None of the pupils can react to signalong signs. Some of the pupils in the secondary part of the school are working at the Early Level of the CfE. The cognitive ability of the pupils in the upper school is generally not above the level of a 5 or 6 year old child.

42. The pupils in the primary 1 classes do not work together, since they are not able to do so.
43. Frustration caused by an inability to effectively communicate their needs can lead to distress which results, in turn, in regular physical reactions from pupils. This includes pupils in primary 1. Such incidents are sometimes logged. A high number of incidents of distress causing a physical reaction are logged each day at school B, sometimes in excess of 50 per day. The number of such recorded incidents in the school between the start of term in August 2024 and the end of January 2025 was 1015. The number of recorded seclusions (where a pupil is so distressed that it is deemed unsafe for staff or other pupils to be present, often leading to evacuation of a class) over that period was 47. Staff members regularly require to attend hospital or a local chemist for treatment for injuries caused by incidents of distress.

Reasons for the Decision

44. 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 8-12 above.
45. 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.
46. A few points about the evidence follow.
47. The evidence given by all witnesses was credible and reliable. Witnesses A, B C and D are all experienced educational professionals, and we are in no doubt that they are skilled witnesses who are well qualified to state the opinions offered in their written and oral evidence. This case turns on the interpretation of the written and oral evidence.
48. Witnesses C and D have observed the child her in the classroom setting. Witness B has not met the child.
49. Witness C met the child in August 2023 when she was at the nursery. She also carried out observations of the child in her primary 1 class in school A, in September 2024 and January 2025. These observations (as well as other materials) led to her report of January 2025, which she incorporated into her oral evidence (R042-047).
50. Witness D has known the child since she started attending the nursery, 3 years old. She has known the child's family for much longer, since all three of the child's siblings attend school A, the eldest being in primary 6. Witness D sees the child each day and has conducted some observations of her in her nursery, primary 1 classroom, sensory room, playground, dining hall and in her physical education activity. These observations usually last around 20-25 minutes. Sometimes the child visits witness D's office to show her what she has done.

51. We have placed particular weight on the evidence of witnesses C and D due to their expertise on children with additional support needs, and their class contact with the child. While the appellant knows her child well, of course, she is unable to comment on her educational needs from a professional standpoint.
52. The appellant's representative placed some emphasis on the observations of the independent advocate in his non-instructed advocacy report (T053-080). While that report is of value, we may only place limited weight on it in comparison with the evidence of witnesses C and D. This is because the advocacy report is based on a single visit to school. Also, the visit took place on a day when there was a visit from external visitors (firemen), so the visit did not take place on a regular teaching day.

The first ground of refusal: specified school education not suited to age, aptitude or ability of the child (2004 Act, Schedule 2, paragraph 3(b))

53. The relevant wording of this ground of refusal is as follows:

[the duty to place the child in the school does not apply] if the education normally provided at [school B] is not suited to the age, ability or aptitude of the child.

54. 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 in that case: para 8-05). We may not consider any other factors.
55. As noted above, the burden of establishing that this ground of refusal exists falls upon the respondent. It is not argued that school B is not suited to the age of the child – it educates both primary and secondary school pupils and the child is of primary school age. This ground of refusal therefore focuses on the ability and aptitude of the child.
56. A number of preliminary observations about this ground of refusal should be noted:
- a. It involves a consideration of the non-suitability of school B only, and not the comparative suitability of schools A and B;
 - b. It involves the suitability of the education specifically for the child;
 - c. The use of the term 'not suited' requires a focus that is on an overall lack of suitability (against the two relevant variables);
 - d. Giving the words 'ability' and 'aptitude' 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;
 - e. We are not tasked with considering whether the education normally provided at school B is suited to the child; the focus of the ground of refusal is whether the education at school B is not so suited; and
 - f. A broad meaning ought to be given to the term 'education', to include direct educational provision as well as the general educational environment within the relevant school. A narrow interpretation would not be in keeping with s.1(4) of the Standards in Scotland's Schools etc Act 2000 (**2000 Act**) which requires that education is 'directed to the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential'.

57. We are in no doubt that school B is not suited to the ability and aptitude of the child. In reaching this conclusion, we rely on the following factors:

- a. The learning level of the pupils at school B is below that at which the child is currently learning at (see our findings in fact at paragraphs 37 and 41 above). This means that the child will not have the opportunity to learn alongside peers at the same (or higher) level. As a specialist tribunal, we understand the importance of children learning within a community of learners at a similar level to theirs. We also know that there is a risk that without learners at a similar level, this could lead to isolation for the child. Indeed, the education system is built, in part, on grouping learners at a similar learning level together, to reduce the risk of children being over or under challenged.
- b. The communication abilities of the pupils at school B are far lower than those of the child and of the peers in her current primary 1 class (see our findings in fact at paragraphs 37 and 39 above). This is important for the child, whose communication has, according to the evidence, come on significantly during the current academic year as she has been mixing with pupils of similar or higher communication levels. As a specialist tribunal, we know about the importance of building communication skills as a crucial element of a valuable educational experience.
- c. Linked to communication skills are socialisation opportunities. These would be very limited at school B given the educational, communication and cognitive gap between the child and pupils she would join in primary 1 (see our findings in fact at paragraphs 40 and 42 above).
- d. The regularity and intensity of the distressed reaction of some pupils at school B (see our findings in fact at paragraph 43 above) leads us to conclude that the child is likely to find the learning environment there challenging. The child can find concentration on tasks difficult (see our findings in fact at paragraph 11 above). The distress exhibited by school B pupils is likely to adversely affect the child's ability to focus on tasks, a currently improving ability. There is no evidence of distress from other pupils at school A. As noted above, while we are not, for the purposes of this ground of refusal, comparing schools A and B, the suitability of school B is affected by the likely impact of reactions to distress from other pupils on a child who would be coming from the environment of a different school (school A), where distressed reactions are clearly not prevalent.

58. In considering the factors above, while we are concentrating mainly on the position that exists at the date of the hearing, we have also considered (as far as is possible) the likely future progress of the child were she to attend school B. This is appropriate since, as noted above, 'aptitude' involves potential capability. The evidence of the learning level, communication abilities, socialisation opportunities and distress reaction intensity factors applies to the learning environment in school B across the school.

59. Mr Fyffe in his oral submissions pointed to the ABAS-3 assessment results from December 2024 (see our findings in fact in paragraph 13 above) as evidence that the child is operating at an educational level much less than her chronological age. The respondent accepts that this is the case, as we do from a consideration of all of the available evidence. However, we can place only very limited weight on the outcome of this assessment. No skilled witness was called to give oral evidence about the assessment outcome. Witness C made it clear that it is a health assessment, not an

education one, and this must be the case as it was completed by a consultant paediatrician. This means that none of the witnesses who gave evidence are qualified to give an opinion on it. This leaves us with the written evidence (the reports of the paediatrician at A080-084, the ABAS-3 assessment being at A080-081).

60. While we are a specialist education tribunal, our specialism does not extend to paediatrics. It is unclear to us, in the absence of further evidence, what status this test holds, or whether it is reliable or even whether it is well regraded within paediatrics. In any event, some of the terms used are not familiar to us, such as 'functional pre academic' and 'school living'. Further, we are unable to translate the age levels assessed using this tool into the educational environment such that we can draw any concrete conclusions: we do not have the expertise to do so. We do have evidence from educational professionals who have based their conclusions on educational qualifications and expertise, as well as in school observations of the child. This is a much more reliable source type (and one that was tested in oral evidence) for conclusions on educational matters, and we prefer that source type.
61. As the appellant's representative points out (written outline submissions, paragraph 16) the Upper Tribunal has made it clear that a simple comparison of the pupil profile of the child with the pupils in school B, while useful, is insufficient on its own when considering this ground of refusal (*JH v Scottish Borders Council* 2024 UT 50, Lord Young, paragraph 21). In the four factors discussed above, we have considered the likely impact on the child of attending at school B. To use Lord Young's words (again at paragraph 21 of *JH*), we have explained 'in what respects...the child would not benefit, or may suffer actual detriment, from being educated in [school B]'.
62. Taking all of this together, the education normally provided in school B (including the educational environment there) is not suited to the ability or aptitude of the child. This ground of refusal therefore exists.

The second ground of refusal: breach of the 'mainstream requirement' (2004 Act, Schedule 2, paragraph 3(g))

63. This ground of refusal exists where placing the child in the school specified in the placing request (school B) would breach the requirement in s.15(1) of the 2000 Act. In order for this ground of refusal to exist, the specified school must be a special school (as defined in s.29(1) of the 2004 Act). The parties agree that school B is such a school, and given the evidence available, we conclude that this is the case.
64. The wording of this ground of refusal is clear: for it to exist, there must be a causal link between the placing of the child in school B and a breach of the requirement in s.15(1) of the 2000 Act. The requirement in s.15(1) of the 2000 Act is that the respondent must provide the child's education in a school other than a special school unless at least one of three circumstances set out in s.15(3) arise. The parties agree that school A is not a special school. We agree that, on the evidence available, school A is not a special school; it is an example of what is commonly referred to as a mainstream school (more on this below).
65. The respondent argues that none of the s.15(3) circumstances arise, meaning that it must provide the child's education in a school that is not a special school (here, school A). The appellant argues that each of the circumstances in s.15(3)(a), (b) and (c) apply. If any one of these circumstances arises, the mainstream requirement in s.15(1) does not apply, meaning that placing the child in school B would not breach that requirement.

66. The respondent bears the burden of establishing that none of the circumstances in s.15(3) arise, since the requirement in s.15(1) (a key component of this ground of refusal) applies only where they do not.

67. We are satisfied that none of the circumstances in s.15(3) arise. We will now explain why.

The circumstance in s.15(3)(a) of the 2000 Act

68. This circumstance arises if we conclude that the provision of education to the child other than in a special school would not be suited to her ability or aptitude. A number of points of interpretation about the circumstance in s.15(3)(a) apply:

- a. We are not comparing two schools (in this case schools A and B) with one another. We must concentrate only on the provision of education for the child in a non-special school setting.
- b. The reference to 'a school other than a special school' in this provision (and in s.15(1)) does not refer to a particular school, but instead to a type of school. Usually, that type is referred to as a 'mainstream school'. That term is not defined anywhere in education legislation, but it does appear in the heading to s.15 and it is used widely in the Scottish school education field. This means that we are focusing on 'mainstream' education in general, not only the education being provided at school A. Having said this, evidence of the child's education there is, of course, very important, since it is of the 'mainstream' type.
- c. The test here is 'not suited'. This suggests a general incompatibility between the child's ability or aptitude (or both) and provision in a non-special school. Such an incompatibility relating to either ability or aptitude would lead to the circumstance arising.
- d. The words 'ability' and 'aptitude' are not defined and so should be given their ordinary and natural meanings, as outlined above in relation to the other ground of refusal.

69. Bearing all of this in mind, we now turn to consider the test in s.15(3)(a).

70. It is very clear to us that non-special (mainstream) education is currently suited to both the aptitude and ability of the child.

71. In reaching this conclusion we refer to the evidence of the child's educational progress at school A, including in her language, socialisation and confidence (see our findings in fact at paragraphs 19, 21, 23, 25, 26, 28 and 31 above).

72. It is within our knowledge as a specialist tribunal that it is common for children with additional support needs to be educated in an environment that is not a special school (a 'mainstream school'). The provision for children with such needs often involves additional support and a differentiated curriculum. Both are provided for the child within school A.

73. While the appellant argues that the child should attend school B, she does not identify any specific concerns with school A's provision. She says in her witness statement that

'Everything has been OK so far during primary 1. The school have not said otherwise. I am not physically present in school so I can only go by what they have said.' (paragraph 11, A077). She also conceded in her oral evidence that the child is 'happy and settled' in school A. Given that the appellant lives with the child and sees her every day after school, this is further evidence that the child's education in a mainstream environment is a positive one.

74. The appellant's representative argued (in oral submissions) that there is a real risk that the child will fall behind her peers in educational terms and that the gap between her and her peers would widen over time. However, there is no evidence to support this: this argument involves a heavy speculative element.
75. Given the success of the educational provision for the child in school A in the relatively short period since she started primary 1, we are in no doubt that the current provision in a non-special school setting is suited to her ability and aptitude. Given that school A is a mainstream school, this is clear evidence to support our conclusion that the provision of education in such an environment would be suited to her ability and aptitude. This means that the circumstance in s.15(3)(a) of the 2000 Act does not arise.
76. This is our conclusion even before considering the condition attached to each of the s.15(3) circumstances, namely that they only arise exceptionally (s.15(3), final line).

The circumstance in s.15(3)(b) of the 2000 Act

77. This circumstance arises where, to provide education in a school other than a special school would be incompatible with the provision of efficient education for the children with whom the child would be educated.
78. The appellant's representative relied on his outline written submission on this point, where he argues that the behaviours referred to in the evidence (and in particular in the advocacy report) will 'begin to cause difficulties for other pupils to access their education' (paragraph 24 of the submission).
79. There is no evidence at all to support this conclusion. The child interacts well with her peers and there is no evidence to suggest that meeting her needs has any impact at all on her peers, far less one that would be incompatible with their efficient education.
80. The appellant's representative goes on (again at paragraph 24) to argue that, in the absence of evidence of the cost of the child's support in school A, the level of the support means that 'resources are being directed away from other pupils for the benefit of the child'. Again, there is no evidence to support this. The evidence indicates that there is no additional support in place specifically for the child; all support in place is there for the children in her class who need it (see our findings in fact at paragraph 15 above). Further, while there is clearly a significant level of support in the class (again see paragraph 15 above), there is no evidence that the support provided to the child has any effect at all on any of the other children in the class.
81. There is no evidential basis to allow us to conclude that the circumstance in s.15(3)(b) arises, whether exceptionally or not.

The circumstance in s.15(3)(c) of the 2000 Act

82. This circumstance arises where the provision of education for the child in a school other than a special school would result in unreasonable public expenditure being incurred which would not ordinarily be incurred.
83. As witness D noted in her evidence, the funding for much of the current teaching resource in place in the child's class in school A has been there since 2020 (see our findings in fact at paragraph 15 above). This means that there is no connection between the child starting at school A and any significant additional teaching resource, nor is there any evidence of any other additional resource type being put in place since the child started at school A (such as equipment). This is a clear indication that the provision of education for the child in school A does not give rise to unreasonable public expenditure.
84. Even if we were to conclude that it did, that expenditure has to, in addition, be at a level or be of a type that would not ordinarily be incurred before the circumstance in s.15(3)(c) arises. As a specialist tribunal, we are aware of the level and type of teaching and support provision commonly made in mainstream schools where there are children with additional support needs. We take the view that the expenditure associated with this teaching resource is at the level and of the type that is not outwith that ordinarily incurred. The fact that this level of expenditure has been in place for around five years at school B lends weight to this conclusion.
85. Given all of this, the circumstance in s.15(3)(c) does not arise, whether exceptionally or not.

Appropriateness in all the circumstances (s.19(4A)(a)(ii) of the 2004 Act)

86. As we conclude that two grounds of refusal are met, we must consider whether it is appropriate, in all of the circumstances, to confirm the placing request refusal decision.
87. Those circumstances include the ones that led to our conclusion that the two grounds of refusal exist.
88. They also include parental preference. The appellant was very clear in her evidence that she wishes the child to attend school B. However, the weight we place on this preference is reduced by the fact that the appellant has never visited school B. She has never spoken to any members of staff there. This suggests that the appellant's opinion on the suitability of school B is not based on a detailed, considered analysis of the provision available there. Further, as noted earlier, the appellant's view is not based on professional educational qualifications or experience, unlike those of witnesses A, B, C and D.
89. Further, witness B, school B's head teacher, concludes (on the basis of the documentary evidence relating to the child made available to her) that attendance at school B would 'reduce her learning experiences and opportunities' (witness statement paragraph 23, R068). In the absence of direct evidence on the matter (such as a visit by the appellant and/or the child to school B), witness B is best placed to consider how the child would fare at the school she leads. Her conclusion on this question is clear.
90. The appellant accepts the evidence of the staff at school A that the child is 'happy and settled' there.
91. The child has made friends in her class and clearly benefits from positive contact at school A with her siblings. That contact would not be available at school B, and given

our findings above on the learning, cognitive, distress and communication levels of the pupils at school B, it is very unlikely that the child would make any new friends at school B. As a specialist tribunal, we are aware of the high importance that good social relationships at school hold for a successful educational experience.

92. If we were to decide to overturn the decision to refuse the placing request, and place the child in school B, that would mean moving the child from a school that is making suitable provision for her, where her educational attainment is improving and where she is happy and settled, to a school where the normal educational provision is not suited to the child's ability or aptitude.

93. Looking at all of the circumstances, we are in no doubt that it is appropriate to confirm the decision to refuse the placing request, allowing the child to continue her education at school A.

Paragraphs 6, 8 and 16 in this decision have been edited 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.