**DECISION OF THE TRIBUNAL**

 FTS/HEC/AR/22/0133

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| **Witness List:** **Witnesses for Appellant:**the childs mother, the appellant**Witnesses for Respondent:** Witness A - deputy head teacher, School BWitness B - principal educational psychologist for the respondent |

**Reference**

1. The appellant made a reference to the Tribunal in July 2022 under section 18(3)(da)(ii) of the Education (Additional Support for Learning) (Scotland) Act 2004 (“the 2004 Act”) in relation to the refusal by the local authority (the respondent) of a placing request.
2. The placing request was made by the appellant for her son, the child, to attend the specified school. The child has additional support needs in terms of the 2004 Act.
3. The request was refused by the respondent on the ground that the education normally provided at the specified school is not suited to the age, ability or aptitude of the child (schedule 2, paragraph 3(1)(b) of the 2004 Act). At the hearing, the respondent also relied on the mainstreaming requirement (schedule 2, paragraph 3(1)(g)).

**Decision**

1. The decision of the respondent to refuse the placing request is overturned. The Tribunal concluded that the respondent has failed to establish that any ground at paragraph 3 of the 2004 Act applies in terms of section 19(4A). The placing request is therefore granted. The respondent shall place the child in the school specified in the placing request within two weeks of the issue of this decision, or such other period as the parties may agree.

**Process**

1. The hearing took place over 2 days.
2. Agreement was reached to lodge a number of late documents into the final file of productions (version 5). The documents are referred to in this decision by page number, as appropriate.
3. A joint minute of agreed facts was also lodged on the morning of the hearing, highlighting one word which parties could not agree (discussed elsewhere in this decision).
4. We also had the benefit of the child’s views, set out in a report provided by an independent advocate.
5. During the hearing, witnesses gave evidence by witness statement, followed by supplementary questions and cross-examination.
6. Parties lodged written submissions and these were supplemented by oral submissions.

**Findings in Fact**

1. The appellant is, the mother of the child.
2. The child is an eight-year-old boy. He has a diagnosis of autism spectrum disorder (ASD) with associated social, emotional and behavioural needs.
3. The child is currently enrolled at school B. This is a mainstream provision within authority B, which is the local authority responsible for the child’s education.
4. The child moved from authority A to authority B in June 2022. When he lived in authority A, the child attended a Language and Communication Resource (LCSC) within school C. The child was referred to a speech and language therapist (SLT) and had weekly support in the LCSC from SLT in the form of group work looking at emotional and social skills. The child participated in smaller group activities. The child made friendships within the LCSC on his own terms. While at that school, he was described as “very kind” and “well-liked”.
5. Prior to moving, a decision was made at a meeting in March 2022 by the authority B GIRFEC liaison group (GLG) to place the child in mainstream education. That decision was based on documentation supplied by authority A. None of the decision-makers at the authority B GLG had met or observed the child directly.
6. A transition meeting took place in May 2022 during which a transition plan was put in place for the child to attend the mainstream provision within school B including a phased introduction.
7. The appellant’s subsequent placing request for the specified school was refused in July 2022.
8. The education provided at the specified school is suited to children of the child’s age.

*Child’s profile*

1. The child requires the use of additional supports including quiet spaces, a visual timetable, ear defenders and now and next boards at school.
2. The child struggles to infer meaning from social situations and can struggle to understand other people’s intentions. He needs support socially. The child benefits from adult reassurance when he gets anxious.
3. The child can get overwhelmed at social times in school. When overwhelmed, he may choose to isolate himself. He prefers to play on his own most of the time at breaks and does not have friendships with his mainstream peers. He has stated that he does not want to have friends in school, and that he is happy on his own.
4. He finds busy environments over stimulating and can become upset in loud and busy environments. He does not go outside at breaks or lunchtime; he is not attending PE; he is reluctant to attend assemblies.
5. He sometimes finds certain clothes uncomfortable and can have strong food aversions and will only eat what he chooses.
6. The child can become upset when his expectations are not met. He is competitive and can struggle with not being first. He can find regulating his emotions when he loses a game challenging. When stressed, the child can find it difficult to take turns or join in co-operative games.
7. When the child is heightened or frustrated, he may walk off. He may also express that he wants to be left alone. He has lashed out at peers when upset. There have been three incidents in school where the child has either bitten or attempted to bite his peers due to misunderstanding social situations.
8. The child responds well to familiarity. He works best when doing familiar tasks.
9. The child has shown increasing signs of stress in school. This has been evident since October/November 2022.

*Current situation and interventions/support*

1. The child is currently educated in a mainstream classroom. There are 24 pupils in the class. The class has the benefit of a support assistant.
2. Currently, there is an additional teacher who is able to assist in the two primary four classes. This teacher can help in the child’s class for part of each day and part of each week. She will on occasion teach a smaller group. This will free up the class teacher to work with the child in a smaller group, to ensure consistency. That arrangement is due to end, although the end date is unknown.
3. Certain further supports have been put in place to address the child’s needs. His class teacher will give him one-to-one instruction relating to tasks, and will follow up to check he continues to engage and complete the task. He sits alone facing a window. He now requires a break during most if not all activities. He will take a five-minute break to draw or read comic strips, but is finding it increasingly difficult to get back on track. He will require a break away from the classroom on an almost daily basis.
4. The depute head teacher has intervened on occasions to support the child, particularly in regard to his social and emotional needs. For example, she has noted that he has become stressed in the line up for entry to school and she has removed him. She has accompanied him outside at lunch break in an attempt to help him to integrate with other pupils during the break. She has introduced him to a buddy in an unsuccessful attempt to foster a friendship.

*Proposed strategies*

1. At a team around the child (TAC) meeting which took place in January 2023, certain actions were agreed. This included a child and adolescent mental health service (CAMHS) referral for the child, which has not yet been actioned; for the child to be put forward for a mathematics intervention small group; and for the education support teacher to undertake an assessment in regard to progress in literacy. In addition, the pupil management plan (PMP) and pupil action plan were revised and updated to take account of recent changes in the child’s behaviour. In the PMP, in regard to risk assessment, the child scored the highest scores possible for likelihood and severity of risk.

*ELR description*

1. School B ELR, located at School B Primary School, has four classes of up to six pupils with additional support needs. These children do not have complex needs. Their profiles are similar to that of the child. The curriculum is adapted to each child’s needs. Each ELR classroom has a “den” or quiet place where the children can retreat when they are overwhelmed. It has a separate playground, although the children can join the main playground if they wish. They are children who will expect to transfer to mainstream as appropriate, and so the ELR operates as a “bridge” between additional support and mainstream.

**The relevant law**

1. The general duties imposed on an education authority in relation to children and young persons with additional support needs are to be found in s.4(1) of the 2004 Act. In particular, the education authority must “(a) in relation to each child and young person having additional support needs for whose school education the authority are responsible, make adequate and efficient provision for such additional support as is required by that child or young person”.
2. Section 22 of the 2004 Act gives effect to Schedule 2, which disapplies the ordinary rules relating to placing requests (set out in the Education (Scotland) Act 1980) and substitutes, in relation to children and young persons having additional support needs, the provisions of Schedule 2.
3. In terms of paragraph 2(2) of Schedule 2 of the 2004 Act it is the duty of the authority to meet the fees and other necessary costs of the child when a request is made by a parent for the child to attend a specified school.
4. That duty will not however apply if any of the conditions set out in paragraph 3 apply, the relevant exceptions being set out in paragraph 3(1) as follows:

(a)     …..

(b) if the education normally provided at the specified school is not suited to the age, ability or aptitude of the child;

(c )….

(g) if, where the specified school is a special school, placing the child in the school would breach the requirement in section 15(1) of the 2000 Act.

1. Section 15(1) of the Standards in Scotland’s Schools Act 2000 places an education authority under a duty to provide education in a school other than a special school unless one of the circumstances in section 15(3) apply, which circumstances will only arise exceptionally. This provision is headed “requirement that education be provided in a mainstream school”. Those circumstances are that the mainstream school would

(a) not be suited to the ability or aptitude of the child;

(b) be incompatible with the provision of efficient education for the children with whom the child would be educated; or

(c) result in unreasonable public expenditure being incurred which would not ordinarily be incurred.

1. If paragraphs (1)(a) to (e) above apply the education authority may place the child but if paragraphs (f) or (g) apply, then the education authority has no discretion.
2. This is a reference in terms of section 18(3)(da)(ii) of the 2004 Act in relation to “the decision of an education authority refusing a placing request made in respect of a child or young person”.
3. Section 19(4A) states that “where the reference relates to a decision in subsection (3)(da) of that section, the Tribunal may -
4. Confirm the decision if satisfied that –
5. One or more grounds of refusal specified in paragraph 3(1) or (3) of Schedule 2 exists or exist, and
6. In all the circumstances it is appropriate to do so,
7. Overturn the decision and require the education authority to –
8. Place the child or young person in the school specified in the placing request to which the decision related by such time as the Tribunal may require, and
9. Make such amendments to any co-ordinated support plan prepared for the child or young person as the tribunal considers appropriate by such time as the tribunal may require”.
10. This thus sets down a two stage test, and if the Tribunal is satisfied that at least one of the specified grounds for refusal exists, then the Tribunal must move to the second stage. In the second stage, the Tribunal must exercise its discretion and determine whether, in all the circumstances, it is appropriate to confirm the authority’s decision. The authority bears the burden of proof at both stages of the exercise.

**Tribunal observations on the witnesses and the oral evidence**

1. The tribunal heard first from witness A. She was a credible and reliable witness, who was candid in her opinions about the child’s progress. She confirmed that she has observed a deterioration in the child’s progress, particularly from a social perspective, since October/November 2022 although she was not able to say the reason for that. She advised that the decision around placing the child in mainstream education was not her decision. We noted that she herself had taken a number of steps to assist in supporting the child. We took particular account of her evidence in coming to our conclusion.
2. The tribunal also heard from witness B. witness B has not met or observed the child. She advised that in her role she would not expect to have met the child. We appreciated that the respondent had a difficulty in that the educational psychologist assigned to the child had left the respondent’s employment and the educational psychologist now appointed has yet to meet the child. As a tribunal, what is most helpful for us is to hear from witnesses who know the child but also who know the schools. Witness B’s evidence was based on having been brought up to date about the current situation by witness A and having considered the minutes of the most recent TAC meetings. She is clearly an experienced professional, who applied her expert opinion to what she had heard. However, her understanding is second hand, and to that extent her evidence was of little value to the tribunal, since we had just heard directly from witness A.
3. Further, witness B was not able to recall when she last visited the ELR, and although she was able to say the type of children who would be placed there, she did not have first-hand knowledge of them. We noted that she conceded in cross examination that witness A was in fact better placed to describe the profile of the children currently in the ELR.
4. We accepted the appellant’s evidence regarding her observations of the child as a parent who knows their child best. We noted too however that she is a qualified teacher, now specialising in ASN, and therefore has more insights than a parent without her experience would have. We noted in particular that she clearly respected witness A and how she had handled matters. We therefore found her evidence to be particularly helpful.

**Reasons for the Decision**

1. The respondent refused the placing request on the grounds that the education normally provided by the specified school, that is school B Enhanced Learning Resource, is not suited to the age, ability or aptitude of the child.
2. As noted above, the respondent is under a duty to place the child in the specified school unless any one of the reasons listed at paragraph 3 of schedule 2 of the 2004 Act applies. The respondent relies on the exception that the education normally provided at the specified school is not suited to the age, ability or aptitude of the child to justify the refusal (paragraph 3(1)(b) of the 2004 Act).
3. The respondent relied also in their response on the presumption of mainstreaming under section 15 of the Standards in Scotland’s School’s Act 2000. The respondent did not reference this as a ground of refusal in the refusal letter, nor rely on it in terms as a ground of refusal in the response. It was however accepted by the appellants representative, quite correctly in our view, that the respondent also sought to rely in addition on the ground for refusal at paragraph 3(1)(g) that where the specified school is a special school (accepted here), placing the child in the school would breach the requirement in section 15(1) of the 2000 Act (the mainstreaming duty).
4. The respondent requires to establish only one ground of refusal (although the respondent would have discretion even if the ground of refusal at 3(1)(b) were established, but not if only the ground at 3(1)(g) were established).

*Discussion around the burden of proof*

1. There was a dispute in this case about where the burden of proof lies in regard to the presumption of mainstreaming ground.
2. The respondent’s representative submitted that the burden of proving that the mainstreaming ground did not apply lay with the appellant. This was on the basis that where there is a presumption it should be rebutted by the party seeking to displace it.
3. The appellant representative’s position was that it was for the respondent to prove that this ground of refusal applied, which includes the requirement to prove that none of the exceptions in section 15(3) applied. The authority she referenced to support that proposition was the decision of another First-tier Tribunal (FTS/HEC/AR/2021/0094). That decision is of course is not binding on us, and it is noted that the paragraph relied on (paragraph 88) contains no reasoning to support its conclusion.
4. While we accepted that the respondent’s representative was generally correct in regard to reliance on presumptions, there is a complexity because of the interplay between the mainstreaming duty and the grounds for refusal.
5. The respondent has the overall burden of showing that at least one of the provisions of paragraph 3(1) applies. That suggests that it will be for the respondent to prove that placing the child in the special school would breach the mainstreaming requirement, which would include the requirement to show that the exceptions to that mainstreaming requirement do not apply.
6. If the respondents representative were right about that, then this would mean that the burden of proof is different for one of the grounds of refusal only, and there is no suggestion in the legislation that there would be a reversal in that one provision. In any event, it would not be logical for the burden of proving the exceptions exist to be on the appellant since evidence to support such exceptions would be in the hands of the respondent. We took the view that it was for the respondent, not for the appellant, to have to prove that this ground existed. We thus concluded that it is for the respondent to prove both (or either) of the grounds for refusal apply.
7. Consequently, in this case, the respondent needs to show that the ELR is *not* suitable, in terms of age, ability or aptitude; or (which failing, since only one ground of refusal need be made out) that the exception to mainstreaming does not apply, that is that the education in the mainstream *is suitable* given the child’s ability and aptitude.
8. As noted above the test is in two stages. First we considered whether ground 3(1)(b) or ground 3(1)(g) apply. Then, at stage two, even if one or more of the grounds of refusal applies, is it appropriate to place the child in the special school?
9. We considered first whether the respondent had shown that ELR is not suitable, that is whether ground 3(1)(b) applies.

*Does ground 3(1)(b) apply?*

1. The respondent relies on the ground that the specified school is not suited to the age, ability or aptitude of the child. The respondent conceded however that the specified school is suited to the child’s age.
2. The focus therefore was on whether the respondent could establish that the resource provided was not suited to the ability, or the aptitude, of the child. Lack of suitability of either is sufficient.
3. It is understood that neither ability nor aptitude is defined, although there is some discussion on the exception in the Scottish Government’s guidance on the presumption to provide education in a mainstream setting, published March 2019. This suggests that this is to be considered when assessing “achievement”, stated to be one of the key features of successful inclusion. The respondents representative, by reference to Witness B’s evidence, defined aptitude as “ability to benefit from education”.
4. In this case, the respondent made a decision, in March 2022, on the basis of paperwork, none of the decision-makers having seen the child, that he should be educated in the mainstream. It may well be that decision was right at the time. The placing request followed but was refused in July 2022, apparently on the basis of the same information that was available to the GLG. Again, that decision may well have been right at the time.
5. However, as the appellant’s representative submitted (relying on *M v Aberdeenshire Council* 2008 SLT Sh Ct 126) and the respondents representative accepted, we must consider the position as at the date of this hearing. It was clear that the situation has changed since these decisions were made. It is apparent however that the decision has not formally been revisited. Although there was mention of an assessment having been done in October 2022, no report was lodged, and the appellant had not seen any report from that time. In any event, the evidence was clear that there has been a deterioration in the child’s engagement since the original decision had been made.
6. Of particular significance is that witness A has seen a gradual change in his behaviour, particularly since October/November 2022, although she was not able to give a reason. We heard evidence from the claimant that in her view there had been a change for the worse in the child’s progress. She put this down to him not coping well with the transition to mainstream which she thought came too soon, meaning he was not doing as well in class as he had hoped and prompting unsettling incidents with his peers.
7. We heard evidence that although the child is not significantly behind his peers in terms of academic achievement, in regard to social and communication skills there are significant concerns.
8. We heard that the child is having increasing difficulty in engaging with learning and showing increasing signs of stress at school, and in particular that the child:
	1. is not engaging with activities successfully;
	2. requires adult support in assigning tasks and support in ensuring that he is still on task;
	3. requires five-minute breaks now in almost every activity;
	4. takes breaks out of the classroom;
	5. sits independently facing out of a window and not facing other pupils;
	6. wears ear defenders increasingly;
	7. is not attending PE at all;
	8. is reluctant to attend assemblies;
	9. has difficulties in lining up to enter school; he does not have any friends;
	10. does not go outside at lunchtime or at breaktime;
	11. has issues with eating and needs supervision;
	12. is not communicating well with his peers;
	13. has resorted on three occasions to biting or attempting to bite his peers due to misunderstanding his social situation;
	14. is reluctant to come off his break activities, and
	15. will on occasion push his work away and curl his arms across his head.
9. There was a dispute about whether the child always or sometimes finds busy environments over-stimulating, and we accepted that evidence of the appellant that the child finds busy environments over-stimulating. This however was insignificant when it came to the conclusion that we reached.
10. **[This paragraph has been removed by the Chamber President in order to protect the anonymity of the child under rule 55(4) of the First-Tier Tribunal for Scotland Health and Education Chamber Rules of Procedure 2018 (schedule to SSI 2017/366)].**
11. We heard about the strategies which had been introduced by witness A and by the class teacher to assist in supporting the child. In regard to strategies deployed by the class teacher, these included giving one to one instructions to check for understanding, with tasks being broken down into small chunks; revisiting to check that he maintains engagement and is following instructions and staying on task; adjusting success criteria; allowing breaks for him to draw or read comic strips and being offered alternative spaces through the day, for example giving him breaks to play on the spacehopper. While we heard that the class teacher would have assistance from a support assistant, we also heard that primary four currently has the benefit of an additional teacher for part of each day and part of the week, which allows that class teacher to spend time with the child working in smaller groups. That is a temporary arrangement however this will cease in the near future. Despite all these strategies in place, the child’s engagement in class has deteriorated, not improved, as evidenced by the behaviours discussed above.
12. In regard to strategies deployed by witness A, these related more to the child’s social needs and included taking him out of the morning line up when he became anxious, taking him out at lunchtime to try to spend time in the playground; and matching him with a buddy to try to establish a friendship. We heard that these strategies had not been successful.
13. We heard about further strategies that were to be introduced or reintroduced. As the appellant pointed out, many of the strategies proposed by witness B had already been tried. However, again the respondents representative had to concede that given that we were taking account of the circumstances as at the date of the hearing, we could not take any proposed strategies which might take place in the future into account. He suggested that we may wish to defer our decision until we had heard whether these strategies had been successful, but we did not consider that to be appropriate in this case not least because of the recent deterioration in the child’s progress.
14. The focus of the evidence which we heard was on the current arrangements for the child, and the particular supports in place, and those to be introduced. However, what was clear to us, given the evidence in particular about gradual deterioration in engagement, is that the current arrangements are not meeting the child’s needs. Although the concern is not currently with his academic abilities, we agreed with the appellant’s representative that we should consider the child’s needs overall, and that unless these social and emotional difficulties are addressed, then this will impact on the child’s academic progress.
15. It should be noted that what the respondent requires to establish is that the ELR is not suitable for the child, in regard to his ability and aptitude. The appellants representative argued that there was no evidence to suggest that the ELR was not a suitable provision. Although she argued that the ELR is significantly more suited to his needs than his mainstream provision, there is no requirement to undertake a comparison as such.
16. Witness A is the ASN coordinator in the school and works closely with the head teacher in both the mainstream and the ELR (which is headed up by a principal teacher). Although we heard some evidence from her about the ELR, in our view the evidence which we heard about the ELR and its suitability was rather limited.
17. Witness A did however confirm that the traits exhibited by the child are similar to those of the children currently in ELR. She advised that there would be a consistent regime there in small groups which she agreed the child would benefit from.
18. We did hear from Witness B that she had concerns that the child may have sensory overload even in the small group setting. She advised of concerns about the cohort of children in the ELR who have very significant learning difficulties and social communication needs so that it will not necessarily be a predictable or quiet learning environment. She advised that there are a number of children who will find it difficult to communicate with the child, and he will not benefit from that and will be unlikely to make reciprocal relationships with the other children in ELR because of the very varied peer group.
19. We considered it to be of particular significance however that witness A did not express concern about the other children in ELR. Indeed, witness B agreed that witness A was best placed to tell the Tribunal about the pupils attending the ELR. Witness A did agree that the sensory output was likely to be reduced. As we understood her evidence, Witness A was of the view that the child’s social and communication needs would require to be addressed in both settings; but she did not express any specific concern about the child’s compatibility with the other children in the ELR.
20. While witness B appeared to indicate that the child’s academic progress might be hindered in the ELR, we understood from Witness A in particular that the curriculum could be adapted to suit the child’s needs and again she did not raise this as a concern. Indeed, she accepted that with fewer distractions this could reduce the child’s anxiety and increase his engagement with learning.
21. We noted in particular, when asked directly about the ELR, that witness A’s evidence was that there no aspects of the ELR which would not meet the child’s needs.
22. We conclude therefore that the evidence we heard does not support any conclusion that the ELR is not suitable for the child; and therefore, that the respondent has failed to establish that the ground for refusal set out in paragraph 3(b) applies.

*Does paragraph 3(g) apply?*

1. We have concluded above that the burden of proof, in regard to relying on section 15 as a ground for refusal, lies with the respondent. Although not necessarily apparent from the provisions of paragraph 3, we have also concluded that the burden of proving that one of the exceptions does not apply also lies with the respondent.
2. The focus as we understood it was on the exception at s15(3)(a) which is that education in the mainstream would not be suited to the ability or aptitude of the child. In essence, this means that the respondent must show that education in the mainstream is suitable for the child.
3. Most of the evidence which we heard in fact addressed this point. As noted above, the focus of the evidence was on the current arrangement in the mainstream, with the various strategies deployed. As discussed above, it is apparent from the evidence that we have heard that the current arrangement is not meeting the child’s needs, and that the evidence overall does not support a conclusion that the mainstream is suitable.
4. For the reasons which we have discussed and relied on above, we have concluded that it has not been established that the exception does not apply, that is that the mainstream would be suited to the ability or aptitude of the child.
5. On the exception under section 15(3)(b), that is that education in the mainstream would be incompatible with the provision of efficient education for the children where the child would be educated, this matter was not addressed directly by the respondents representative (presumably because he was relying on the fact that the onus of proof was on the appellant). The appellants representative submitted that the child’s education in the mainstream is not compatible with the efficient education of others with whom he is educated. She relied on evidence that the child will bite other pupils when he feels threatened by them, to their injury, and also that the level of support needed for the child detracts from resources which should be deployed for the whole class. To the extent that there was evidence before the tribunal on this matter, we accept that the respondent has not proved that this exception does not apply.
6. As the appellants representative submitted, there was no evidence at all in regard to any support for section 15(3)(c) that educating the child outwith the mainstream would result in unreasonable public expenditure, and we had to assume that this was not an exception which the respondent relied on.
7. Although it is to be presumed that these circumstances arise only exceptionally, despite being urged to conclude otherwise by the respondents representative, we take the view that the circumstances are currently exceptional. It was clear to us from the evidence that we heard that the supports put in place in the mainstream are not addressing the child’s needs. We have concluded that the education being provided, even with the support measures currently in place, is not suited to the ability or aptitude of the child. That means that mainstream education at this point in time is not suitable for the child and the presumption would not be breached by placing the child in the ELR because the one or more exceptions apply. We heard in any event that mainstreaming and inclusion are the goal for children in the ELR which operated as a “bridge” and that children would access mainstream classes as and when appropriate. This is the appellant’s understanding, and as we understood it, her desire.
8. The respondent has not shown that that the exception does not apply so that the respondent has failed to prove that paragraph 3(1)(g) applies. We find that the exception does apply that is that the requirement for education in the mainstream is rebutted.

*Second stage (appropriateness)*

1. Where we conclude that one of the grounds of refusal applies, we are required to be satisfied that in all the circumstances it is appropriate to do so.
2. However, in this case we have taken the view that the authority has failed to show that their duty to place the child in the school specified by the appellant is not displaced by the establishment of any one of the relevant reasons providing an exception to that duty.
3. There is therefore no need to consider the appropriateness question in this case because we uphold and reference and grant the placing request.

**Child’s views**

1. We had the benefit of an advocacy report describing an interview with the child. In some ways this was very positive, for example he said that he “loved” school and liked the teachers and that he can find the school noisy but he “just deals with it”. It did however confirm a number of concerns, and in particular he said that he does not have any friends, but that he did not want friends, because he was “happy on his own”. **[Part of this paragraph has been removed by the Chamber President in order to protect the anonymity of the child under rule 55(4) of the First-Tier Tribunal for Scotland Health and Education Chamber Rules of Procedure 2018 (schedule to SSI 2017/366)].**

**Conclusion**

1. We overturn the respondent’s decision to refuse the placing request. Given the rapid deterioration of the child’s progress, and in particular the current level of the child’s disengagement, we consider that the placing request should be implemented as soon as possible. We therefore direct that this decision should be implemented within two weeks of the date of this decision, or such other period as the parties shall agree.