



Additional Support Needs

**DECISION OF THE TRIBUNAL**

**Reference**

1. The appellant is a mother of a nine-year boy currently enrolled at an exclusively mainstream primary school, run by the respondent. The appellant requested that the respondent place her son at the independent school. In October 2020, the respondent refused the request, and decided instead to place the child at a special unit dedicated for the education of children with autism spectrum disorder which is situated within (and falls under the same management as) a mainstream school, all run by the respondent. In December 2021, the Tribunal received the appellant's reference to it of that decision (Education (Additional Support for Learning) (Scotland) Act 2004, sec 18(1), (3)(da)(ii)).

**Decision**

2. The Tribunal **confirms** the respondent's decision:
  - 2.1. The Tribunal is satisfied that a ground for refusal of the placing request exists (Education (Additional Support for Learning) (Scotland) Act 2004, sec 19(4A)(a)(ii)). In particular, it is satisfied that:
    - 2.1.1. The respondent is able to make provision for the additional support needs of the child in their special unit (sch 2, para. 3(f)(ii)).
    - 2.1.2. It is not reasonable, having regard both to the respective suitability and cost of the provision for the additional support needs of the child in the independent school and in the respondent's special unit, to place the child in the independent school (para. 3(1)(f)(iii)).
  - 2.2. The tribunal is satisfied that it is, in all the circumstances, appropriate to confirm the respondent's decision (sec 19(5)(a)(ii)).

**Process**

3. A bundle had been prepared consisting of T001-T038; A001-A038 and R001-037. The tribunal granted the appellant's unopposed application to lodge two e-mails dated October 2020, from the appellant to a member of the respondent's staff.

4. The bundle included an advocacy worker's statement for the child and a joint minute of admissions. No party relied upon the contents of the advocacy statement in their submissions. Whilst we took into consideration the views of the child, they did not change the outcome of our deliberations.
5. In February 2021, a case conference call took place with the legal member and parties' representatives, and a note including directions was issued following this.
6. In March 2021, upon reviewing the bundle, the legal member of his own initiative made certain directions.
7. The reference was heard in two days in March 2021.
8. The respondent led evidence from:
  - 8.1. Their education manager, who convened the group that made the decision to place refuse the request;
  - 8.2. Their educational psychologist responsible for the child; and,
  - 8.3. The head teacher of the school which included the special unit into which the respondent had decided to place the child.
9. The appellant led evidence from
  - 9.1. the chief executive of the governing body of the independent school; and,
  - 9.2. from the appellant herself.
10. For want of time, the tribunal decided to receive principal submissions after the hearing in writing from each party by April 2021, and replies in writing later in April 2021. The tribunal does not consider that there are any new points arising in the respondent's reply such that require further comment to be invited for the appellant.

### **Findings-in-fact**

11. The tribunal found the following facts admitted, or proven on the balance of probabilities:

#### *The child's experience at his current school*

- 11.1. The child has experienced frequent distress and breakdowns with self-control both on the journey to and at school.

- 11.2.** The child has exhibited aggressive behaviour at his current school. This can include throwing items. This has included, on one occasion, punching a teacher.
- 11.3.** The child has run away and made it out of the school grounds on several occasions.
- 11.4.** The child has stopped attendance at his current school.

*The child's current needs and abilities*

- 11.5.** The child has additional support needs.
- 11.6.** The child has autism spectrum disorder (ASD), anxiety and sleeping difficulties.
- 11.7.** The child has difficulty regulating the volume of his speech. He will make loud screeching noises when he is excited.
- 11.8.** The child has sensory sensitivities and finds loud or busy environments overwhelming due to auditory issues. When overwhelmed child will exhibit self-soothing behaviours.
- 11.9.** The child is upset by bright lights.
- 11.10.** The child can display his emotions in a violent and aggressive way.
- 11.11.** The child is self-conscious about being different to peers.
- 11.12.** The child expresses morbid, catastrophising and suicidal thoughts.
- 11.13.** The child can tolerate going to the shops, although he may need a short time in a quiet space to settle.
- 11.14.** The child is able to go to the cinema using ear defenders.
- 11.15.** The child can tolerate, to some extent, the noise from a hairdryer, although he may need a break from the noise.
- 11.16.** The occasions in which the child exhibits aggressive behaviour or other serious breakdowns in self-control outside of school, other than when going to school, are relatively seldom.
- 11.17.** The child has a child's plan.
- 11.18.** The child is of Primary 5 school age.

- 11.19.** The child has excellent mathematical ability. He is extremely able with numerical operations; formal testing indicating that he has a greater aptitude at this than 99.8% of children his age. He is good at mathematical reasoning, formal testing indicating he falls in the 93<sup>rd</sup> percentile (more able than 93% of children his age). Children with ASD tend to find mathematical reasoning more challenging because of its reliance on problem solving skills.
- 11.20.** The child has an excellent ability in reading comprehension, but an average reading rate and accuracy for children of his age.

*The special unit*

- 11.21.** The special unit is a specialist resource within a mainstream school, comprising two special classrooms within the same building.
- 11.22.** The special unit is for the exclusive education of children with ASD.
- 11.23.** The building in which the mainstream school and special unit are situated is similar in appearance and layout to the child's current school.
- 11.24.** The school has no barriers, such as locked doors or gates, to physically prevent children from leaving the school grounds.
- 11.25.** The special classrooms are alongside the mainstream classrooms in the school. The child's classroom is across the corridor from the physical education hall.
- 11.26.** Each of the two classes of the special unit has a maximum of six pupils.
- 11.27.** The class in which it is intended to add the child currently consists of four Primary 4 pupils and one Primary 7 pupil.
- 11.28.** The teachers and support staff for the special unit, including the head teacher, have appropriate, specialist training relevant for the education of children with ASD.
- 11.29.** There will be opportunities, once the current regime of social distancing due to the pandemic is departed from, for the child to interact with mainstream pupils and take part in classes there, should that be appropriate for him.
- 11.30.** The strategies applied at the special unit are the same as those intended to be applied at the child's current school (albeit applied by specialist rather than generalist staff).
- 11.31.** The school has a sensory room and a meeting room, which, if available, can be used as a safe or quiet space for a dysregulated pupil. Such availability cannot

be guaranteed as they might be in use for other regular activities. There is no dedicated safe space or similar room.

**11.32.** There is a secured part of the grounds outside the building that can be used for two or more pupils.

**11.33.** Work for the transition of a pupil at the special unit to secondary school would normally take place from the beginning of Primary 6.

### *The independent school*

**11.34.** The independent school is a special school receiving grant aid from the Scottish Government.

**11.35.** The building in which the independent school is situated is very different in appearance and layout to the child's current school.

**11.36.** The building was purpose built for children with hearing impairments and difficulties with sensory processing. It has comparatively favorable acoustic characteristics for those with sensitivity to sound.

**11.37.** The school grounds are secure so that a child attempting to run away from there would not find it physically possible to leave.

**11.38.** There are currently 12 pupils enrolled at the independent school.

**11.39.** The pupils are separated into a senior and junior phase (split according to age). There are currently five pupils in the junior phase, in which the child would be placed. Children in one phase might be taught in some classes along with pupils in the other phase.

**11.40.** Of the children in the junior phase, all but two have significant learning difficulties or disabilities. Of the other two, one has a hearing impairment and behavioral difficulties, and the other has significant school anxiety. These latter two children would likely form the child's peer-group.

**11.41.** If the child was enrolled at the independent school, it would be intended to teach him mathematics with children in the senior phase given his level of ability.

**11.42.** The maximum size of class is four pupils.

**11.43.** Each classroom has its own break-out area.

**11.44.** Academic teaching at the independent school is blended with yoga, massage music and exercise. Apart from the core curriculum of numeracy, literacy,

health & wellbeing, there is also taught creative activities such as home economics and craft, design & technology.

- 11.45.** The governing body of the independent school will be launching a new secondary school unit, for the full-time education of pupils with additional support needs with a mainstream academic curriculum, up to and including SQA Advanced Highers. It will be run separately from, and in a different part of the building as, the independent school.
- 11.46.** The school has regular events such as assemblies run with the local mainstream primary school, to provide interaction with mainstream pupils.
- 11.47.** The child would likely not complete the remainder of his schooling at the independent school. The likelihood is that he would move either to the new secondary school unit or to a school run by the local authority. There is a real prospect that work for the child's transition would begin at or shortly after his arrival at the independent school.

#### Respective cost

- 11.48.** The net cost of education at the independent school to the local authority would have been £33,272 *per annum* as at the date of the hearing. The current rate will reflect an increase for inflation from April 2021.
- 11.49.** The possibility that the child might share school transport at some point with another pupil is present whether he attends the special unit or the independent school.

### **Reasons for the Decision**

**12.** The material upon which the findings-in-fact were made are as follows:

- 12.1.** Findings 5-11, 17, 21, 23 are derived from the joint minute of admissions.
- 12.2.** Findings 1-4, 12 and 16 are derived from the appellant's evidence.

Finding 16 in particular derives from the appellant's answer to the tribunal's question about instances of aggressive behaviour out with School. In her answer, the appellant spoke both of few instances outside the school context of aggressive behaviour and of 'meltdowns' which the tribunal takes to mean any serious loss of self-control, whether manifesting itself in aggression or otherwise. The tribunal's understanding of the appellant's oral evidence is confirmed by the written materials. The appellant said in her statement that: "The meltdowns were always about the school environment itself" (A027, para. 9). The joint report of the child's consultant paediatrician and speech &

language therapist of January 2021 contains a very detailed account of the child's behaviour and only refers to 'outbursts', a 'meltdown' or 'aggressive' behaviour in the context of school (A007, A008, A012).

- 12.3.** Findings 13-15 are derived from the joint report of the child's consultant pediatrician and speech & language therapist of January 2021 (see A006, A009).

The report has a detailed section entitled "Response to sensory input or unusual interests in sensory aspects of the environment" and, whilst it catalogues a variety of the child's sensory challenges, it does not go further than stating that the child can be "overstimulated by too many lights or lots of background sound" (A13). No instances of aggressive behaviour or other substantial dysregulation are noted.

- 12.4.** Finding 18 follows from the child's age.
- 12.5.** Findings 19 and 20 derive from the evidence of the educational psychologist.
- 12.6.** Finding 22 is an inference from the respondent's title of its special unit.
- 12.7.** Finding's 24, 48 and 49 derive from the education manager's evidence.
- 12.8.** Findings 25-33 derive from the evidence of the head teacher for the special unit.
- 12.9.** Findings 34-47 derive from the evidence of the chief executive officer of the independent school's governing body.

- 13.** The tribunal found each of the witnesses to give their evidence sincerely. Subject to following qualifications, the Tribunal found their evidence also to be reliable:

- 13.1.** The respondent's education manager. The respondent has not shown to our satisfaction that the respondent, when making the decision that has been referred to this Tribunal, had regard to the appellant's e-mail of October 2020. There is no documentation to vouch this. The respondent's education manager's evidence to that effect appeared more to be a reflection of what she believe ought to have occurred rather than a true recollection of what did occur. The Tribunal did not find her evidence as to the process for agreeing amendments to the written outcome of the child planning meeting to be clear. Her initial reference to "agreed amendments" seemed to gloss over the fact, as she explained later in evidence, that proposed amendments might not be agreed to by the current school, with the result that the written outcome was not a record agreed between school and parent. However, this is not material to this decision, as the tribunal has formed its own assessment of the child's needs and the different schools'

suitability without regard to the manager's views. The only aspect of her evidence that the tribunal has had to rely on is with respect to finding no. 43 (shared transport). No point was made in the appellant's submissions about transport costs so we proceed on the basis that this is now uncontentious.

**13.2. The respondent's educational psychologist.** The educational psychologist explained that, in January 2020, it was her intention to make the child's case a "passive" one in view of reports of his progress at school. When it was put to her in cross-examination that the improvement in the child's progress had just been over a period of two weeks, rather than something longer term, she seemed surprised and concerned. The psychologist also explained that, had she realised the child was on a part-time timetable, she would not have contemplated making him a 'passive' case. We accept the appellant's evidence that the child had only shown an improvement over two weeks, and that he was attending no more than part-time at the material time. It follows that the psychologist must have misunderstood or been misinformed. The educational psychologist's advice was to the respondent was also at a general level, *i.e.* that placing the child at a special unit forming part of an otherwise mainstream school would be appropriate for this child, not that this particular special unit was appropriate. She had never visited this specific special unit. This necessarily means we must treat her evidence both as to primary matters of fact and professional opinion (given that it would be based on her understanding of the facts) with significant caution. But we were positively impressed by the unhesitating and non-defensive manner in which she conceded that the situation was not as she had understood and that this would have affected her opinion of his case. She was a candid witness. The Tribunal accepted her opinion as to the child's need for an appropriate peer group and to be academically challenged.

**13.3. The head teacher for the special unit.** There is one head teacher responsible both for the special unit and the mainstream part of the primary school. When asked in cross-examination as to what information she had about the child's support needs, she began by saying she had "not an awful lot of information". This was despite the "extensive" telephone conversations the head teacher spoke of with the appellant; the appellant spoke of an hour-long conversation with the head teacher. This answer gave the Tribunal some cause for concern. The head teacher also seemed to have some difficulty grasping the relevance of questions regarding the location of the classrooms of the special unit relative to other parts of the building, such as mainstream classes and the physical education hall. This suggested the head teacher was not fully versed as to the child's needs, or had not given detailed consideration to them. The head teacher was aware that there was no concern about the child meeting his developmental milestones; the Tribunal is not satisfied her knowledge extended to a significant respect beyond that. She was neither well-placed, nor did we understand her to venture, any particular opinions specific to this child and how he might fare at her school. All that having been said, we also noted the head teacher's evidence that



the initial source for gathering information about the child's needs was by means of a child planning meeting. The Tribunal noted the initiative shown by her in asking to attend a child planning meeting for this child conducted by his current primary school (albeit that request was not granted following the appellant's opposition). This evidences the school management's diligence in seeking opportunities to promptly identify the child's needs.

- 13.4. The chief executive officer of the independent school's governing body.** The chief executive in her supplementary statement (A035 *et seq*) offers certain views on the child's needs and what form of educational provision he requires. The tribunal has taken account of what the chief executive has said there but has arrived at a different assessment.

One particular passage in the chief executive officer's supplementary statement, though very brief, seems to epitomise much of her stance and how it differs from the tribunal's approach. The chief executive officer states that: "His sensory needs are many and varied. In a mainstream setting it is likely that many of these will be triggered during the course of a day, leading him to become overwhelmed." (A035). The tribunal does not consider that education in a special unit situated within a mainstream school should be equated with a mainstream setting, nor does it consider, given the seldom breakdowns outside of the school context, that sensory difficulties are likely the sole or predominant cause of the child's difficulties at school.

- 13.5. The appellant.** It was clear from both her written and oral evidence that the appellant had given extensive and careful thought as to her child's needs. In assessing her evidence, the tribunal finds it necessary to distinguish between, on the one hand, those matters the appellant observed and, on the other, the appellant's opinions as to the causes of what she observed and what is likely to occur in the future. The tribunal more readily accepted the appellant's evidence with respect to the former; it did not reach identical conclusions as the appellant on the latter. As will be explained later, the tribunal differs from the appellant to some extent in the implications it draws from the facts spoken to by the appellant.

### ***The respondent is able to make provision for the child's needs at its school***

- 14.** The appellant's solicitor submits that the respondent has not demonstrated its ability to meet the child's at the special unit. She submitted, first, that there was not an adequate and up-to-date assessment of the child's needs by the respondent, and secondly that the school could not meet the child's needs as properly assessed.
- 15.** In respect of the first point, the appellant's solicitor relied upon upon *Mv Aberdeenshire Council* 2008 SLT (Sh Ct) 126. The most recent assessment of the child's needs was made in light of a child planning meeting occurring in September 2020. This was now outdated given the passage of time, the potential changes in circumstances brought

about by the COVID-19 pandemic, and the child's non-attendance at school. The appellant contested parts of the written report of the child planning meeting. She had proposed amendments to it, which had not been incorporated. The respondent's psychologist had not met or observed the child since 2019.

### The respondent's assessment

16. The implication of the appellant's solicitor's reliance upon the *Aberdeenshire* decision appears to be that, in the absence of a recent and adequate assessment conducted by the respondent, it is not able to discharge the burden of proof upon it. The tribunal does not accept that proposition.

17. The *Aberdeenshire* case was an appeal against a placing request concerning a child with additional support needs decided in the sheriff court. Explaining why he found that the education authority (the defenders) had not established the ground contained in para. 3(1)(f), Sheriff Tierney, at para. [47] said that:

“... this process is ... effectively a re-hearing of the case. ... the very latest time at which the defenders' assessment of [the child's] ... needs should have been made was before the commencement of the hearing of the appeal and in time for proper consideration and examination of what they considered to be [the child's] ... needs at the hearing of the appeal. ... There was no suggestion by ... the witnesses for the defenders that the defenders would meet any need which I held to be established, and *standing the evidence* ... *I cannot assume they would do so*. Their position was that if the defenders were successful in opposing the appeal they would only then themselves assess what they believed [the child's] ... needs to be, and then what steps should be taken to meet them.” (emphasis added)

18. There are two material distinctions between the *Aberdeenshire* case and the present reference. First, the respondent has attempted to assess the child's needs. It has not simply declined to make any assessment, awaiting the decision of this Tribunal. Second, unlike the sheriff in the *Aberdeenshire* case, as will be explained in a moment, the tribunal is satisfied, standing the evidence, that the child's needs *as held to be established by this Tribunal* can be met at the respondent's special unit.

19. If this Tribunal could not distinguish the *Aberdeenshire* case, it would not follow it. It is a first instance decision which this Tribunal is not bound by. There is no explicit requirement in para. 3(1)(f) that an assessment be made by the authority of the child's needs by the time of the appeal hearing. Given that an appeal to this Tribunal constitutes a rehearing, the Tribunal's view is that no such requirement arises by implication. This is not akin to proceedings for judicial review. To the extent that the respondent has not conducted its own satisfactory or recent assessment of the child's need, it makes it forensically more difficult for it to discharge the burden of satisfying the Tribunal that those needs will be met by the school proposed by them, but a formal assessment is not a prerequisite. Absurd results might follow otherwise. The

respondent's assessment might be absent, out of date, flawed, incomplete, provisional or inconclusive, but the Tribunal might be able to make a full assessment of the child's needs based on its own evaluation of the evidence led. It would not be in a child's interests if, despite this, the Tribunal was compelled to hold that the child be educated in a potentially less suited school, rather than in a school that would meet the child's needs, because of the respondent's default.

### The Tribunal's assessment

- 20.** The real question is whether, by means of formal written assessment or other evidence (such as oral evidence of the respondent's witnesses at the hearing) the respondent has demonstrated that the school at which it proposes to place the child can meet his needs. The Tribunal is satisfied that it can.
- 21.** The tribunal is satisfied that the special unit is appropriately staffed by experienced and trained individuals. The child will be in a small class with a high staff-to-pupil ratio. The staff are open to, and will be capable of, implementing adaptations either specific for the child or applied more generally for the child's benefit. The Tribunal is satisfied that there are no deficiencies or disadvantages with the provision at the special unit which, whether considered in isolation or cumulatively, would prevent the child's needs being met.
- 22.** The appellant's solicitor submitted that the child required:
  - 22.1.** A setting and environment which were entirely different to his current school, due to his negative associations with that school.
  - 22.2.** A setting where the child could work on his anxieties and life skills.
  - 22.3.** A high ratio of staff to students.
  - 22.4.** A neutral environment to avoid sensory overload.
- 23.** The appellant's solicitor submitted that the child's needs could not be met at the special unit, as:
  - 23.1.** The building in which the special unit and mainstream school were housed was visually similar to the child's current school.
  - 23.2.** Being in the middle of the mainstream school, it was necessarily busy.
  - 23.3.** There was no dedicated break-out space, and no suitable alternative.
  - 23.4.** The school regime would not be suitable without individual adaptations for the child (such as foregoing attendance at assembly), which pose problems for him given his need to be treated the same as others.

- 23.5.** The same strategies would be applied at the special unit as had been followed without success at his current school.
- 23.6.** The training of the special unit's staff was "not as focused in terms of holistic support for anxiety and mental health support as staff" at the independent school (appellant's primary written submission, p. 5).
- 23.7.** It would entail two transitions in fairly quick succession (into the special unit, and then from there to secondary school).
- 24.** The tribunal accepts that a building with an entirely different appearance would be an advantage, but not that it is a necessity. It is unlikely that the child's negative associations with a school in a similar building are so strong that it would preclude him settling into a new school. If the environment and regime was otherwise satisfactory, one would expect any negative evocations arising from the building to subside over time.
- 25.** The school will likely pose some challenges to the child, in terms of sights, sounds and smells. The tribunal accepts, as agreed between the parties, that the child has particular sensory difficulties. But the tribunal does not accept that such difficulties would likely be disabling or overwhelming in themselves. This is unlikely in light of other experiences about the child outside of school. That he is able to tolerate, to some extent, the noise of a hairdryer, or going to the shops, or going to the cinema, militates against this. Such experiences would involve a variety of sights, sounds and smells which a significant number of children with ASD would find intolerable. The fairly infrequent instances of aggression or other losses of control outside of school (or in the course of going to school), also militates against this. The tribunal acknowledges the possibility that a child's happiness and ability to learn effectively might still be compromised by stimuli albeit that they can be tolerated, short-term without breakdowns in self-control. The tribunal does not claim to possess certainty on the point. But the tribunal concludes that it is more likely than not that the child will be able to tolerate some degree of burdensome stimulus and still be able to substantially benefit from education at the special unit.
- 26.** The child's unhappy experiences at his current school, resulting in frequent breakdowns, absconding and ultimately in the complete cessation of attendance, appear to be the product of multiple causes rather than just the sensory environment. The manner in which the child's needs were addressed in the first few years of primary school appeared to be inadequate. According to the appellant's evidence, which the tribunal accepts, the child initially was dealt with as being badly behaved. Some later measures adopted with benign intent were implemented in a manner that would be liable to be perceived as punishments, such as keeping the child in a separate room on the days following a breakdown. This explains the child's breakdowns on the way to school which, as the appellant surmised, must be signs of anxiety about school rather than due to sensory overload. The appellant's views, expressed in her evidence to the tribunal, were that he was burdened by memories and associations of the school environment with past 'trauma'. The tribunal accepts this assessment. Where it differs to some extent from the

appellant is the implications this has for the future. It finds it improbable that the similarity in appearance between the schools would be enough to cause substantial anxiety beyond the short-term. It finds that without this factor, it is probable that the child will find, or learn to find, the usual sights, smells and sounds of a special unit within a mainstream school to be tolerable. It finds it is probable that such stimuli will not be a barrier to him receiving effective education there.

- 27.** The tribunal considers that the maximum class size of six, with a class teacher and additional support staff, should be adequate to meet the child's needs.
- 28.** The tribunal considers that a dedicated, indoors, safe-space is desirable but not essential for the child. We note that the school's primary strategy for dealing with breakdowns in behaviour is to escort the other children out of the classroom, a strategy which it considers reasonable and a common practice as known to it as a specialist tribunal. Indeed, the child has proven reluctant to move from a classroom when he is in a dysregulated state. The availability for some of the time of the meeting-room, the sensory room and (weather permitting) the gated play area, mitigate the lack of dedicated room. Even if the school had one or more dedicated safe-spaces, their provision for this child could not be guaranteed if some other child coincidentally had a breakdown.
- 29.** The tribunal acknowledges the child's strong wish to be treated the same as others. It accepts the appellant's evidence that her son would have a significant drive, for example, to attend assemblies even if this might prove too much for him. This trait, however, is not unique or unusual for a child with ASD or other condition leading to additional support needs, and thus is unlikely to be outwith the experience of the staff at the special unit. The tribunal does not consider there to be any reason why adaptations could not be made, if necessary, across his class as a whole. The need to adapt to a particular child's additional support needs is a common challenge for a special school. The tribunal is satisfied from the evidence of the special unit's head teacher that she has anticipated the need for adaptations. Some changes will involve compromises that affect other pupils. An example might be the removal of some or all artwork in the classroom, should it prove to be overstimulating for the child. But again, the need to make compromises is a common-place feature of special schools. That is not a perfect situation, but the test as to whether the respondent can meet the child's needs at the special unit is a more modest one.
- 30.** The tribunal considers that an important distinction between the special unit and the child's current school is that the strategies will be applied consistently by specialist staff. They are specialist in the type of training that they have received and they have experience of utilising this training regularly for many (perhaps all) of the pupils in their class. One should not expect the same results from non-specialist teaching staff attempting to follow such strategies whilst also having to cater for neurotypical children. The tribunal does not infer from the lack of success in the child's current school that the special unit will be similarly unsuccessful.

31. The tribunal considers that there is no merit in any suggestion that there was a lack of focus in training on holistic support for anxiety and mental health. The appellant's solicitor's submission on this point lacks precision or a basis in the evidence. The Tribunal notes the child's difficulties with mental health, but accepts the evidence of the respondent that care particular to mental health is the responsibility of the NHS Children and Adolescent Mental Health Service (CAMHS). The independent school's approach is similar in consulting monthly with CAMHS. So far as the school environment and regime is relevant in avoiding contributing to the child's poor mental health, this does not raise any consideration separate from what has been discussed above. The tribunal accepts the evidence of the educational psychologist that negative thinking of the kind observed with the child is frequently observed with children with ASD. It is likely a product of or exacerbated by the unsatisfactory situation with the child's school. If the child is schooled in a more appropriate environment and regime, then that is likely to have corresponding improvements in his mental health. The tribunal is satisfied that the child does not require assistance with life-skills beyond that which would be required by a typical pupil with ASD. He does not require, for instance, special assistance with learning how to clean or cook or with personal hygiene. So far as social skills are concerned, a setting where he can interact both with other pupils of his age with ASD and with neurotypical pupils will meet that need.

32. Two transitions (to begin schooling at the special unit, and then move from that unit to secondary education) in a relatively short period (in less than 16 months) is sub-optimal. But the tribunal is satisfied that this should probably not be a barrier to the child's additional support needs being met by education at the special unit, alone or in combination with other factors.

33. The tribunal has considered whether there might be reasons other than those identified in the appellant's submissions that might arguably mean the child's needs cannot be met by the respondent at the special unit. The only other factor it has identified is the lack of a secure building or perimeter, meaning that it is possible that the child might abscond from the school. Again, a secure perimeter would be an advantage. But if, as the tribunal finds, the school should otherwise be able to meet the child's needs, it is probable that attempts to abscond should ultimately cease. The tribunal is satisfied from the evidence of the head teacher for the special unit that the staff have expertise to apply appropriate strategies to de-escalate situations to avoid absconding.

***It is reasonable to confirm the decision having regard to suitability and cost***

34. The tribunal is satisfied, having regard to the respective suitability and cost of the provision for the additional support needs of the child in the independent school and in the respondent's special unit, that it is reasonable not to place the child in the independent school.

35. The tribunal considers the special unit to be more suitable for the child than the independent school.

**36.** The tribunal considers that the independent school has the following advantages over the special unit:

**36.1.** The independent school is in a building with a very different appearance and layout to the child's current school.

**36.2.** The school is likely to be a quieter environment, both in terms of its design, slightly smaller class sizes, and because it does not form part of a larger school.

**36.3.** Each classroom has its own dedicated break out space.

**36.4.** The independent school has marginally smaller classes.

**37.** The tribunal notes that placement at the independent school, whilst likely to be followed by a further transition within a couple of years, will likely result in transitions which are spaced out over a greater period than would be the case if the child was placed at the special unit. This is an advantage, but one which is, in the tribunal's view, modest.

**38.** The tribunal notes the independent school's greater focus on life-skills, practical education and time spent on activities with a therapeutic benefit, such as yoga. It considers aspects of this likely to be attractive, at least initially, for the child. But that necessarily involves some compromise with the time spent on academic tuition.

**39.** The tribunal considers that the independent school has the following disadvantages over the special unit (which are to some extent inter-connected):

**39.1.** The child would have relatively less opportunities for interaction with mainstream children. Whilst noting the independent school's provision of joint activities with the local mainstream schools, these cannot offer the same degree of opportunity as somewhere co-located with a mainstream school.

**39.2.** The child would have a smaller peer-group. There are three pupils similar in terms of needs, abilities and age at the independent school. None of those of a similar age have ASD. The tribunal considers the potential to form friendships with five pupils within his class with ASD of a similar age, and possibly other pupils in mainstream, is a material advantage.

**39.3.** The child would require to be taught at the independent school, at times, with children much older than him, particularly for mathematics. The limited pool of peers would militate against group academic work.

**39.4.** The independent school does not specialise in teaching a mainstream academic curriculum.

**40.** The tribunal considers that the advantages possessed by the independent school over the special unit in terms of suitability are outweighed by the disadvantages. The tribunal

considers that for this child who appears to be, at least in one respect, academically gifted, or at least very able, a school with a deliberate focus away from a traditional academic curriculum may be a significant disadvantage. The child would have few peers of his own age, and none of his own age with ASD. He would be disadvantaged by an absence of children who were like him. He would be liable to become isolated and bored.

41. Given its findings on suitability, the tribunal's assessment of respective cost is academic. There is no need to make a cost-benefit assessment, as assessment of benefit alone determines the special unit to be the most appropriate school for this child.

***It is appropriate to confirm the respondent's decision***

42. The tribunal is satisfied that the child's needs can be met at the respondent's special unit, and that it is more suited to the child than the independent school. There are no other circumstances militating against confirmation of the respondent's decision to refuse the request to place the child at the independent school, and instead to place him at their special unit. Accordingly, the tribunal is satisfied in all the circumstances that it is appropriate to confirm that decision.