

DECISION

Appeal By: Parent
Against Decision of: LA
Concerning: The Child
Hearing Date: 2025

Tribunal panel: Judge
Specialist Member
Specialist Member

Persons present:

The Parent
The Parent's Representative

Counsel – LA Legal Representative
LA Representative
Assistant Headteacher and ALNCo, LA School – LA Witness
Educational Psychologist – LA Witness
Principal Educational Psychologist – LA Observer

The School

Appeal

1. The Parent's appeal was brought under section 70 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ('the ALN Act 2018') and when registered, it concerned the contents of the Child's Individual Development Plan ('IDP'), including the description of their ALN and the Additional Learning Provision ('ALP') which they require. In addition, the Parent was asking the Tribunal to name the School, a maintained special school, in section 2D of the IDP. The appeal also sought an order that the LA should take over responsibility for maintaining the Child's IDP, but as noted below, the LA had conceded this part of the appeal shortly before the final hearing.
2. The final hearing was an oral video hearing conducted fully remotely using Microsoft Teams. There were no technical issues arising out of the fact that it was a remote hearing, and we were satisfied that all parties were able to see, hear and participate effectively during it.
3. The Panel had been provided with and considered an electronic bundle consisting of 559 pages.

Attendance

4. The Parent attended the hearing and was represented by the Parental Representative.
5. The LA was represented at the hearing by Counsel. The witnesses who attended the hearing was the Assistant Headteacher & ALNCo, the LA School, and an Educational Psychologist. The LA Assistant Lawyer, and the LA Principal Educational Psychologist, also attended the hearing as LA representative and Observer respectively, although as set out below, the Panel determined that neither of them should be permitted to remain in the hearing room, and so they did not play any active part in the hearing itself.

Background

6. The Child is now 13 years old and is in Year 8. Their parents are separated and during their primary education they spent some time at a school in England, where they lived with their other parent. In October 2023, the Child moved back to Wales to live with their parent, and they began attending a different High School at that time, although the timing of this move meant that the Child missed the start of the school year. The Child is now on the Neurodevelopmental Pathway and has previously been identified as having barriers to learning including difficulties with emotional regulation, social interaction and engagement in learning. Since joining the High School their attendance has been variable, and they have, at times, missed significant amounts of schooling. The Child has also had input from outside agencies, including CAMHS, Families First, Elevate and the LA's Inclusion Service. In July 2024, the High School issued the Child's first IDP, although the Parent subsequently made a request to the LA for the contents of this to be reconsidered, and for the LA to take over responsibility for the IDP. The LA's decision on these requests was delayed, as a result of the request having been sent to the wrong email address. In the meantime, the Parent filed their appeal with the Tribunal, who directed the LA to provide a copy of its decision about the requests by 20th December 2024. On that date, the LA issued a revised IDP, but confirmed its decision that the High School should continue to maintain the IDP.

Preliminary issues

7. As noted, the Assistant Lawyer had attended the hearing as an observer, but the Panel bore in mind that the Parent was not legally represented, and that the Assistant Lawyer had, throughout the course of the proceedings, conducted the appeal on behalf of the LA. We also recognised that the Parent had not brought any witnesses to the hearing and was not joining the hearing from the same location as their representative. In view of these factors, the Panel remained concerned that the Assistant Lawyer's presence would potentially make it difficult for the Parent to give their evidence, and having applied regulation 40(6)(b), Education Tribunal for Wales Regulations 2021, we decided that it would not be fair, just and proportionate for the Assistant Lawyer to remain in the hearing.

8. When considering the LA's application for the Principal Educational Psychologist to remain in the hearing, the Panel had the same concerns about the Parent's ability to participate effectively in the hearing if they were to do so. The LA Counsel submitted that the provisions of regulation 50(1)(b) permitted the LA to have a representative at the hearing, in addition to their legal representative, and they also submitted that it would be important for the Principal Educational Psychologist to be present in the hearing in order to provide them with instructions. However, we were not persuaded by these submissions, and we bore in mind that the Principal Educational Psychologist did not appear to have had any prior involvement in the appeal itself, and could, in any event, provide instructions to the LA Counsel via email or telephone, and we reiterated that the Panel would take additional breaks if the LA Counsel needed to seek such instructions. We also concluded that since regulation 50(2)(b) makes provision for the Tribunal to grant permission for the LA to have more than one representative, this provided support for our conclusion that the 'default position' would be that they are only permitted to have one representative (whether legally qualified or not), and we noted that prior to the hearing, the LA had not made any application for an additional representative. For all these reasons, we concluded that the Principal Educational Psychologist should also be excluded from the hearing.
9. The LA also wished to rely on late evidence, consisting of a witness statement dated 2nd April 2025 from the Executive Headteacher, at the High School. The Parent did not agree to this evidence being admitted, and their representative submitted that the contents of the statement did not appear to be relevant for the issues which the Tribunal would be considering. The Panel shared this view, and we were also not persuaded that the conditions in regulation 47(2)(a) were met. We noted that the statement largely described the steps which the school had taken since it had been inspected in November 2022, and we considered that it would have been possible for this evidence to have been obtained before the final evidence deadline. For both these reasons, we decided that the LA's late evidence would not be admitted.

Issues / parties' positions

10. During the course of the appeal the parties had worked together to agree changes to the IDP, and they had provided the Tribunal with version 3 of the working document ('WDV3') in which their agreed / proposed amendments had been set out. At the start of the hearing, the LA Counsel also confirmed that the LA had now conceded that they would take over responsibility for maintaining the IDP. They had also agreed that section 2B should include provision for the Child to have 12 sessions of Occupational Therapy input, as the Parent had requested, but WDV3 still contained several other elements of disputed wording in sections 2A and 2B.
11. In respect of the placement issues, the Parent's position remained unchanged, and they confirmed that they were still asking the Tribunal to name the School in section 2D. Throughout the appeal, the LA have maintained their position that the School would not be appropriate for the Child, and it remains their view this school would not be able to offer them an appropriate peer group or curriculum, because the other learners at this school are working at a significantly different level to them. It is the LA's position that section 2B of the

IDP should be left blank, as the Child has already been admitted to the High School, and this school is still appropriate for the Child, and can deliver the ALP they require.

12. The relevant legal framework which we needed to consider included section 6 of the ALN Act 2018, and the Panel must have regard to the views, wishes and feelings of the Child and the Parent, as their parent. Since the School is a maintained school, the Panel needed to consider section 48(4) of the ALN Act 2018, which states that:

“The LA may only name a maintained school in an IDP for the purposes of securing admission of a child if –

- (a) The authority is satisfied that the child’s interest requires the ALP identified in his or her plan to be made at the school, and*
- (b) It is appropriate for the child to be provided with education or training at the school”*

We also needed to consider section 14(6) of the ALN Act 2018, which confirms that if the Child’s reasonable needs for ALP cannot be met unless provision for a place at the School is also included in their IDP, then this school must be named in the IDP.

13. Section 9 of the Education Act 1996 also remains in force in Wales, and so we must also have regard to the general principle that pupils should be educated in accordance with the wishes of their parents, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure. In their case statements, the LA had submitted that a placement at the School would be significantly more expensive than the High School, and would therefore represent an inefficient use of resources / unreasonable public expenditure, but the LA Counsel confirmed that the LA also opposed this school on the basis that it is not appropriate for the Child, and would not be able to offer them efficient instruction and training.
14. We also needed to consider relevant guidance in parts of the Additional Learning Needs Code for Wales 2021 (‘the Code’), including Chapters 12 and 23, in particular. In view of the LA’s position on the costs of a placement at the School, the guidance on the efficient use of resources in paragraph 2.40 of the Code would also be relevant.
15. The Panel therefore identified that the key issues which we would potentially have to determine were:
 - The appropriate description of the Child’s ALN in section 2A, and whether further wording should be added to describe, in particular, the impact of the Child’s dysregulation on their engagement in the classroom, their difficulties with attendance including the fact that they: *“only attends a limited timetable”*, and their fine motor difficulties;
 - Whether section 2B should also include additional wording to describe the ALP which the Child requires to support their emotional regulation difficulties;
 - The appropriate description of the ALP which the Child requires to address their gross / fine motor skills, and sensory and physical needs;

- The appropriateness of the School, and whether this school can deliver the ALP which the Child requires;
- Whether the Child's interests require their ALP to be made at the School, in line with the Parent's wishes;
- The respective costs of the Child's placement at each of the parties' proposed schools, and whether the cost of a placement at the School would represent an inefficient use of resources, and / or, unreasonable public expenditure;
- Whether the Child's reasonable needs for ALP cannot be met unless the School is named in their IDP.

We discussed these issues with both parties at the start of the hearing, and they confirmed that there were no additional issues which they were inviting the Tribunal to determine.

Child's views, wishes, and feelings

16. The Child did not attend the final hearing, and neither party had sought their views on the specific issues which the Panel needed to determine. However, we had read written evidence of their views within the bundle, including in the report prepared by the Educational Psychologist, which was dated 23rd October 2024 [page 445], and the report dated 5th January 2025 from an Occupational Therapist [page 463]. The Educational Psychologist had carried out a 'School Wellbeing Card' sorting activity with the Child, and the Child had identified that they found it difficult to leave home and would rather be there than in school. They also worried about coming into school but identified that there were teachers who cared about them, and that there was at least one adult in school who they could talk to about their worries. The Child also identified that they did not know how to calm themselves when they felt sad, angry or upset, and this was also consistent with the views they expressed to the Occupational Therapist, who noted that the Child had described themselves as having "*no tools*" to manage their feelings of anxiety.
17. The bundle also contained a "*Concern summary*" dated 10th March 2025 [page 198] which recorded that on that date, the Child was very unhappy when they arrived at school, and had told a member of staff that they would not be in school the following day as they were going to visit another school (the School). The summary also records that: "*The Child stressed that they don't want to go to another school and has told their parent they aren't going...The Child said they are really happy in the High School and has a lot of support which is why they don't want to go to another school. The Child said they are going to barricade themselves in their bedroom so they don't have to go*".

Consideration of evidence and Tribunal's conclusions with reasons

18. The Panel were pleased that the parties had managed to reach agreement on many of the disputed issues in the appeal. We accepted that the vast majority of their agreements in WDV3 were appropriate and supported by the evidence we had read and heard. Except as set out below, we therefore include their agreed amendments, which are set out in the attached final working document, as part of our final order.

19. We have carefully considered all the written and oral evidence and submissions. We refer to the parts of this evidence that we consider to be particularly relevant. We heard oral evidence from the parent, the Assistant Headteacher & ALNCo and the Educational Psychologist. Having done so, we made the following findings on the disputed issues.

Changes to section 2A

20. We recognise that many of the Parent's proposed amendments were based on wording from the Occupational Therapist's assessment report, and we acknowledge that when they had visited the High School, the Occupational Therapist had, unfortunately, not been able to carry out their planned observation of the Child within a classroom environment. However, we also note that the Occupational Therapist does not appear to have tried to speak with school staff either before, or after their visit, and their report does not suggest that they requested any additional information from them about the Child's functioning, and / or presentation in school. When preparing their report, the Occupational Therapist also only seems to have read the 2023 report from the Primary School, and their report gives no indication that they had read other sources of information, such as the Educational Psychologist's report, for example. We concluded that the relatively limited evidence base on which the Occupational Therapist had relied meant that we would have to approach their report with a considerable degree of caution. We also accepted the LA Counsel's submission that the Occupational Therapist's assessment effectively represented a 'snapshot' of the Child's presentation within a clinical setting, and we concluded that we would therefore have to consider other sources of evidence when deciding whether to include the Parent's amendments in section 2A.
21. Having heard the Assistant Headteacher's oral evidence, the Panel concluded that they were a compelling witness, who was able to give clear and detailed answers to a range of questions, and was evidently familiar with the Child, and had a good understanding of their needs, and current presentation in school. We found the Assistant Headteacher's evidence very helpful when considering the proposed amendments in section 2A, and in particular, they were very clear that the Child "*doesn't dysregulate in school*". The Parent's Representative submitted that the Child's limited attendance in school is a sign of their dysregulation, and maintained that the wording on page 7 of WDV3, which described the impact of the Child's dysregulation on their ability to settle and engage in lessons, should be included within the IDP. However, we recognise that this wording was based on the Occupational Therapist's report, and since they had been unable to observe the Child in a classroom environment, the basis for the Occupational Therapist's evidence on this issue remained unclear. In view of this, and our earlier conclusions, we were not persuaded that it would be appropriate to place any significant weight on this aspect of their report. We preferred the Assistant Headteacher's evidence on this issue, and so we declined to make the Parent's proposed amendment to the '*Behaviour, Emotional and Social Development – Emotional Regulation*' part of section 2A.

22. We also found the Assistant Headteacher's evidence very helpful when considering the Parent's proposed wording that the Child "*only attends a limited timetable*". In their addendum witness statement dated 28th March 2025 [page 550] and oral evidence the Assistant Headteacher had provided a useful update on the Child's recent attendance, and they confirmed that the Child now attends school on 3 – 4 days each week, and is attending a wider range of lessons than they had done previously. The Assistant Headteacher confirmed that the Child has begun attending school on Mondays, which they had historically found difficult, and this was also consistent with the Parent's own evidence, although they explained that the Child was not in school on the day of the hearing as they were not well. The Assistant Headteacher told us, and we accept, that the Child now has a good friendship group, with whom they spend their breaks and lunchtimes, and the Assistant Headteacher described the Child as "*happy and relaxed*" when they are with their friends, commenting that the Child "*really enjoys those interactions and looks really positive*". They confirmed that the school has taken steps to move the Child's classes, so that they can attend some lessons with their friends, and this has led to them attending Art, Geography and History lessons, and they have, very recently, attended one ICT, and one PE lesson. The Assistant Headteacher explained that there are ongoing discussions between staff and the Child to identify which lessons they will try to attend next, and expressed their view that the change in the Child's classes has had a really positive impact on their ability to attend more lessons. They explained that currently, the Child finds Drama, Music and DT lessons overwhelming, and during those lessons, the Child will come and work in the Learning Support Department, where they are comfortable, and they have now developed strong relationships with the staff who work there. The Assistant Headteacher also described a recent incident when the Child was finding it difficult to remain in a History lesson, but was able to identify that they needed to leave, and was confident enough to communicate this to the teacher, before taking themselves to the Learning Support Department.
23. We also accepted the LA's submission that although the Child's anxiety has been one of the main barriers to their engagement in learning, the support measures which the High School have put in place for this have been effective, and it is clear that their attendance and engagement have both improved since they started at the school. When considering the '*Cognition and Learning – Engagement and learning*' part of section 2A, we concluded that the evidence we had read and heard was entirely consistent with the existing wording in this part of the IDP, and we decided that this is still an accurate description of this aspect of the Child's ALN. We were therefore not persuaded that it would be appropriate, and / or necessary to include any of the Parent's additional wording in this part of section 2A, and we declined to do so.
24. The Parent's other proposed amendments concerned the Child's sensory and physical needs, and we have renamed this part of section 2A in the attached final version of the working document, to reflect the wording which the Code uses to describe the areas of need. The key area of dispute between the parties was whether the Child has difficulties with their fine motor skills, and the Parent's proposed amendments were, again, based on the Occupational Therapist's assessment report. This report indicated that the Child demonstrated some fine motor challenges during the assessment, but from the

other evidence we had read and heard, we were not persuaded that any such difficulties are impacting on the Child's functional skills within a learning environment, or that they constitute an aspect of their ALN which needs to be described in section 2A of their IDP. We concluded that the example of the Child's work [page 544] provided support for the Assistant Headteacher's oral evidence that the Child's handwriting is legible, and they also confirmed that the Child can work for longer periods of time without the use of any assistive technology. The Assistant Headteacher explained, and we accept, that the Child themselves has not raised the fact that they have difficulties with their handwriting, and the Assistant Headteacher's evidence on this issue was supported by the Educational Psychologist, who also confirmed that during their observation of the Child in an English lesson, the Child was able to complete a writing task without requiring access to any assistive technology when doing so. We therefore preferred the LA's evidence on this issue, and so we have not included any of the Parent's proposed wording on the Child's fine motor challenges within the attached final version of the working document.

25. The Parent also wished to include large amounts of additional wording from the Occupational Therapist's report in this part of section 2A, but as we had explained during the hearing, we considered that much of this was unnecessarily descriptive, and / or repetitive, and did not need to be included within the IDP itself. We bore in mind the guidance in paragraph 23.8 of the Code, which states that an IDP should be "*written in plain language...with a view to all who are likely to read the IDP being able to understand it, including, wherever possible, the child or young person*", and we considered that quoting lengthy sections and tables from the Occupational Therapist's report was not consistent with this guidance, and would not be particularly useful to anyone seeking to understand the Child's ALN. We concluded that the additional wording which the parties have now agreed is appropriate and is sufficient to accurately describe the Child's sensory and physical difficulties. We also noted that the Parent had also proposed amendments elsewhere in section 2A, but we concluded that these constituted historical detail, unnecessary narrative, or commentary, rather than a description of the Child's ALN. Some of the amendments, such as the reference to the Occupational Therapy assessment on page 5 of WDV3, were also repetitive of wording elsewhere in section 2A, and for all these reasons, we decided that we did not need to include any of the Parent's other amendments in the attached final version of the working document.

Changes to section 2B

26. We firstly considered the proposed amendments in the '*Behaviour, Emotional and Social Development – Emotional Regulation*' part of section B. The Parent's Representative explained that the Parent did not accept the LA's proposed wording that the Child should develop their "*personalised 'calm-down' kit*" with school staff, and they submitted that this would place too much onus on the Child themselves. They also maintained that the Occupational Therapist should be involved in the development of this kit, although we noted that the Occupational Therapist's report did not specifically recommend that this would be required. As a Specialist Tribunal, we considered that involving the Child in the process of developing this kit is likely to be the most effective way to ensure

that they can be provided with a selection of appropriate equipment which they will actually use to support and develop their own self-regulation skills. We also recognise that the Child will now be having 12 sessions of direct input from an Occupational Therapist, and we concluded that if necessary, this Therapist will be able provide further support and advice on how to develop this personalised kit as part of these sessions. We therefore accepted that the LA's proposed wording is appropriate, and have included it in the attached final version of the working document.

27. The parties had already agreed wording to reflect that the Child will need to be supported by sensory / movement breaks but there was a dispute about whether the IDP should also reflect that these should be "*scheduled*" and / or "*supervised*". We acknowledge the Parent's concerns about the fact that the Child had, on previous occasions, been found in the corridor or "*hovering outside the Learning Support Hub*". Having heard the Assistant Headteacher's evidence on these issues however, we accept that the incident to which the Parent referred had occurred in September 2024, which was a point in time when the Child had not yet developed good relationships with staff in the Learning Support Hub. We also accept that the other evidence we had heard, including the evidence outlined in paragraph 22 above, suggests that the Child is now willing and able to both identify when they need a break, and to take this without needing support from staff to do so. As such, we were not persuaded that it would be appropriate, and / or necessary to include the Parent's proposed additional wording on these issues, and we shared the LA's concerns that such wording would be unhelpfully restrictive, and would potentially result in the Child being withdrawn from lessons for a timetabled break, even though they did not need one. The Parent had raised concerns that the Child did not like using their 'time-out' card, but this was not consistent with the Assistant Headteacher's evidence, and we were not persuaded that we needed to specify the method by which the Child should tell staff that they needed a break. We were also satisfied that members of school staff have a good relationship with the Child, and that they will, if required, be able to discuss these issues with them to ensure that they continue to have an effective means of communicating when they need a break which they are happy to use.
28. Whilst the parties had also agreed that the Child's breaks should be "*structured*", we were not persuaded that the inclusion of this term would be helpful, and we concluded that it lacked appropriate specificity, and would potentially reintroduce restrictions on the way in which the Child could access the breaks they require. As a Specialist Tribunal, we concluded that it would be more appropriate for the IDP to reflect that the Child will be supported with sensory or movement breaks "*as and when they feel that they need them*", and that such wording would retain an appropriate element of flexibility, and would also reflect the evidence we had heard about the Child's own ability to recognise when they need a break. We have therefore reflected this wording in the attached final version of the working document. Having done so, we also declined to add the proposed amendment on "*structured routines and physical activities*", or the additional wording about movement breaks which the Parent had proposed in the '*Sensory and Physical*' part of section 2B. We concluded that this wording lacked specificity, and was repetitive, and / or not required, because the wording which we have now added appropriately reflects the

purposes for which the Child's breaks will be used. Finally, we noted that the Parent had proposed that the breaks should include "*an OT designed sensory circuit*". Whilst this wording was drawn from the Occupational Therapist's report, we considered that this aspect of their report was not well-explained, and we noted that the Occupational Therapist had not recommended any additional time for the Therapist to design any such circuit, for example. As a Specialist Tribunal, we also concluded that the evidence we had read and heard from the Assistant Headteacher and the Educational Psychologist did not suggest that the Child's sensory needs are impacting significantly on their engagement in their learning, or are at a level where this sort of sensory circuit would be required, and for all these reasons, we declined to include this amendment.

29. As noted, the LA had conceded that the Child would require the 12 sessions of direct Occupational Therapy input which had been recommended by the Occupational Therapist. We have therefore reflected this provision within the attached final working document, but we have also specified that this provision will be used: "*to support the Child's sensory and physical needs*", as we consider that this form of wording will allow an appropriate degree of flexibility for the Therapist working with the Child to determine the precise nature and focus for these sessions. We also concluded that the need for these sessions must be balanced with the need to ensure that the improvements in the Child's attendance and engagement with their learning can be sustained. With this in mind, we have also included wording in the attached final version of the working document to reflect our conclusion that: "*these sessions must be timetabled to avoid the Child having to miss lessons with which they engage well and enjoy*".
30. The LA had proposed that the Occupational Therapist should liaise with school staff for 20-minutes on a half-termly basis, rather than the weekly basis which the Parent had proposed. We firstly noted that there were no professional recommendations which supported the kind of review which the LA was proposing, and we accepted the Parent's Representative's submission that this would potentially mean that there would be very limited opportunities for liaison between the Occupational Therapist and school staff. However, as a Specialist Tribunal, we were not persuaded that the Child's identified sensory and physical needs are likely to change frequently, or are at a level which will mean that there needs to be a high level of liaison between the Therapist and staff to ensure that these can be supported effectively. We therefore concluded that it would be appropriate to specify that the Occupational Therapist will need an additional 5 minutes each week for liaison with staff, and have also substituted wording to reflect that this should be with the ALNCo, as we consider that they will be best-placed to disseminate any advice received to ensure that it can be implemented effectively by school staff.
31. When considering the proposed amendments for ALP to support the Child's fine motor skills, we firstly bore in mind that our earlier conclusions mean that this is not an aspect of their needs which we have now identified in section 2A. From the evidence we had read and heard, including from the Assistant Headteacher and the Educational Psychologist, we were also not persuaded that the Child has, to date, required any additional provision in the form of ergonomic tools, handwriting interventions, or the use of assistive technology, including a laptop for longer pieces of writing. The Assistant Headteacher was

clear, and we accept, that all these resources are available at the High School, and that there are other students, including in the Child's class, who do use laptops in lessons, or as part of access arrangements for exams. However, in the absence of any cogent evidence to support a need for the Child to use these resources as part of their ALP, we concluded that we did not need to include any of the Parent's amendments on these issues in the attached final version of the working document. We were also not persuaded that it would be necessary or appropriate to include provision for the Child to use textured fidget tools, and we bore in mind that the Parent themselves had highlighted that using such fidget toys in school would potentially mark the Child out as different and could lead to teasing from other students.

32. When considering the Parent's other proposed amendments, we accepted the LA Counsel's submission that it would be premature to include ALP for the Child to have "*adaptations for PE*", and we accept that they have only very recently begun to attend these lessons. We concluded that the proposed wording lacked the appropriate specificity for inclusion in an IDP, and in the absence of any cogent evidence that the Child will, in fact, require any adaptations in order to be able to access these lessons, we were not persuaded that this wording should be included in their IDP. For the same reasons, we also declined to include any of the Parent's other proposed amendments in this part of the IDP, and we concluded that they were not supported by the evidence we had read or heard, and / or had been adequately addressed elsewhere in this part of the IDP.
33. Finally, we noted that WDV3 included several proposed changes to the Child's intended outcomes, although we recognise that there is no separate right of appeal to the Tribunal in respect of this part of an IDP. We bore in mind however, that since the Child's IDP had not previously identified their sensory and physical difficulties, it had not included a separate outcome in respect of the ALP we have now included to address this aspect of their ALN. The LA Counsel confirmed that the LA would agree to some of the Parent's proposed wording being included in the IDP, and we considered that the wording suggested by the LA Counsel was appropriate, and would be consistent with the ALP which we have now included in the Child's IDP. We have therefore added wording to reflect our conclusions in the attached final version of the working document.

Section 2D

34. When considering this part of the IDP, one of the key background issues which we needed to address was the question of the Child's cognitive ability, because the Parent had expressed concerns that the Educational Psychologist had not conducted any cognitive testing during their assessment, and they maintained that the Child is not working at an academic level which will enable them to access a mainstream curriculum. Having heard the Educational Psychologist's evidence however, we accept that they had gathered evidence from a range of sources when preparing their assessment report, including school staff, an observation of the Child in lessons, and direct work with the Child themselves. The Educational Psychologist maintained, and we accept, that the cognitive ability 'CAT' tests which the Child had completed when they first joined the High

School were also consistent with the progress reports we had read within the bundle, and we noted that the vast majority of the Child's end-of year target grades are Bs. In addition, the Educational Psychologist had highlighted that the referral for their input had not highlighted the Child's cognition and learning skills as barriers to their learning, and we concluded that there was no cogent evidence to suggest that the Child themselves has identified any difficulties with their school work, either to the Educational Psychologist, or to school staff. Against this backdrop, and as a Specialist Tribunal, we shared the Educational Psychologist's view that it would not have been appropriate or ethical to undertake further cognitive testing of the Child as part of their assessment. The Parent's Representative had also raised concerns about discrepancies in the Child's progress report, and the fact that a "*current working grade*" has been included for subjects which the Child was not attending, such as Geography. However, the Assistant Headteacher explained, and we accept, that these grades could have been derived from recent assessments, as well as class work, and they also highlighted that this grade could potentially have been based on work which the Child had completed when they were in the Learning Support Hub. From the evidence we had read and heard, the Panel were not persuaded that there was any cogent evidence to contradict the Educational Psychologist's clear assertion that the Child will need to have access to a full mainstream curriculum, and as a Specialist Tribunal, we also accepted that this is the case.

35. It was in the context of these findings, that we moved on to consider the specific placement issues we needed to determine.

The School

36. In their statement dated 27th March 2025, [page 547] the Deputy Headteacher at this school was clear that they did not consider that this placement would be able to meet the Child's needs, and they highlighted that: "*academically none of the learners in Key Stage 3 are working at the same level as the Child, and socially we do not have any children of the same gender that fit the Child's profile*". They noted that whilst the Child's CAT test scores place them in the 'average' range, all the other pupils in their age range at the School are working at progression stage 2 or below. We bore in mind that the Deputy Headteacher's had described the learner profiles of pupils at the School, which included those with "*severe or complex*" medical, cognition and learning or Autistic Spectrum Conditions, and we concluded that this group of pupils would present with a very different range of ALN to the Child themselves, which would make it very difficult for them to establish relationships with a range of peers within the school. The Panel also shared the Deputy Headteacher's concerns that the School would not be able to offer an appropriate friendship group for the Child, and we bore in mind that the Assistant Headteacher's evidence supported our conclusion that the Child's school friendships are important to them, and have played a key role in the improvements in their engagement with learning.
37. The Deputy Headteacher had also described the curriculum at the School, and we accept that this appears to have a high degree of flexibility, and has been developed to support pupil engagement and regulation. However, in view of

our earlier conclusions about the need for the Child to have access to a full mainstream curriculum, we were not persuaded that the School's curriculum would be appropriate for them, and the Deputy Headteacher had noted that the school follows a Primary School model of delivery. We also concluded that the Child would not be able to follow a full range of GCSE subjects at this school, and the Deputy Headteacher indicated that the requirements of the pupils at the School means that the school can only deliver a primary level Science curriculum, for example.

38. We acknowledge that the School is a school about which the Parent has expressed strong positive views, and that the environment at this school, with access to animals, and walks in the school grounds, would be an advantageous feature of this school. However, it was also striking that the Parent had acknowledged that despite having visited the School, they were unable to specifically identify anything which the School could offer the Child, and which would not be available at the High School. The Parent had also acknowledged that the Child would be "*a bit anxious*" about moving to the School, but we were unable to ignore the very clear views which the Child himself has expressed about leaving the High School, and in view of their age, we considered that these views were a key factor to which we would need to have careful regard. We were not persuaded by the Parent's suggestion that the '*Concern summary*' did not necessarily represent an accurate representation of the Child's views, and we recognise that the Child may have had valid reasons for expressing different views to their parent, and to school staff. The Parent's Representative also raised concerns that the Child's views should have been passed on to the Parent because they raised safeguarding concerns, but we did not accept that this was the case, and we accepted the Assistant Headteacher's explanation of the reasons why the school had not felt it necessary to pass on this information. We concluded that the views which the Child expressed were also supported by the Assistant Headteacher's evidence about the positive relationships they have built with their friends, and we considered that this is a further factor which is likely to have played a role in the Child's desire to stay at the High School.
39. In view of these, and our other conclusions about the inappropriateness of the curriculum and peer group which would be available at the School, we decided that the conditions in section 48(4) are not met in respect of this school, and we were unable to conclude that it would be appropriate, or in the Child's interests to name this school in their IDP. As noted above, section 9 of the Education Act 1996 also requires us to have regard to the Parent's wishes, and the general principle that children should be educated in accordance with their parents' wishes. However, our conclusions about the curriculum at the School meant that we were not persuaded that the Child would receive an efficient education at this school, and so despite the Parent's expressed wishes, we were not persuaded that the Child should be educated at this school.
40. Finally, we considered section 14(6) of the ALN Act, to determine whether the Child's reasonable needs for ALP would not be met unless we named the School in their IDP, but we were also unable to conclude that this condition has been established. From the evidence we had read and heard, we were satisfied that the Child's reasonable needs for ALP are currently being met at the High

School, and the Assistant Headteacher evidence provided clear support for our conclusion that this school can, and will, continue to deliver the ALP which the Child requires. We therefore concluded that there was no legal basis on which we could name the School in the Child's IDP. We also accepted the LA Counsel's submission that since the Child has already been admitted to the High School, section 48 would not require us to name this school in section 2D, and in view of the Assistant Headteacher's evidence, we were not persuaded that we needed to do so on the basis of section 14(6) either. We have therefore left section 2D blank in the attached final version of the working document, but have amended section 1B to reflect that it will now be the LA, and not the High School, who are responsible for maintaining the IDP.

41. Our conclusions above meant that we were not specifically required to consider the additional costs of a placement at the School, but for the sake of completeness, we did so, and from the written evidence from the Finance Manager [page 545] we concluded that the annual difference in cost between the Child's placement at the School and the High School would be just over £36,000. We had not been provided with any evidence about the specific costs of the Child's transport to the School, but we recognise that they would have needed such transport, and that this would have further increased the costs of a placement at this school. We therefore concluded that even if this placement had been able to offer an appropriate curriculum and peer group it would, in any event, have represented an inefficient use of resources, and unreasonable public expenditure, as the LA had submitted.

Final note

42. The Panel recognise that our decision on placement is likely to be very unwelcome for the Parent. However, we also shared the view expressed by the Parent's Representative that all adults working with the Child should be "*on the same page*", and we consider that this will be the best way to ensure that their needs can be supported. The Panel were impressed by the number and range of professional support teams which the High School have tried to bring in to help support the Child since they have been at the school, and we very much hope that the Parent will feel able to continue working with school staff, and the LA, and to encourage the Child to take advantage of any support which is being offered by them, so that they can also engage in the many opportunities which are available to them at the High School.

Order

It is ordered that:

1. The Appeal is **allowed in part**.
2. The LA must amend section 2A of the IDP for the Child so that it reflects the wording in the attached final version of the working document.
3. The LA must also amend section 2B of the IDP for the Child so that it reflects the wording in the attached final version of the working document.

4. The Appeal in relation to section 2D of the IDP is dismissed.

By consent it is ordered that:

5. The LA will be responsible for maintaining the IDP for the Child.

Dated 2025