



## **DECISION**

**Date of Birth:** 2016  
**Appeal By:** The Parent  
**Against Decision of:** Local Authority (LA)  
**Concerning:** The Child  
**Hearing Date:** 2024

### **Persons Present:**

The Parent  
Headteacher, School A

*Parent*  
*Headteacher*

1. The Parent appeals against the decision of the Local Authority dated September 2023 regarding placement only.

### **Mode of Hearing**

2. The case was listed for oral hearing by way of video. The hearing was fully effective in this manner.

### **Attendance**

3. The Parent attended the appeal alone. Due to the nature of the matters to be discussed, the Headteacher of School A was invited to attend the hearing and joined the hearing.
4. The LA had been barred from attending the hearing or participating in any way. They did not seek to have the bar lifted.

### **Preliminary Issues**

5. This case had been case managed prior to hearing by the Deputy Chamber President. Due to the failure of the LA to comply with any directions, including putting in a response to the appeal and their failure to attend a telephone case management hearing, they were barred from having any involvement in this appeal. The LA's officer sent an email explanation for their failures but did not ask to be reinstated.
6. The Tribunal judge hearing the substantive appeal reviewed the case on receipt of the papers from the parent. It was clear that information on what appeared to be the parent's choice of school was not present. The parent was

asked to provide information on School A and a position statement, which they did.

7. At the start of the appeal, the Tribunal noted that The Parent appeared to refer to the Child as their second given name. The parent confirmed that that was the case. We therefore use the second given name in our decision, with the exception of the order.
8. The parent confirmed that they wish the Child to be placed at School A after viewing it. They said that they had been asking for any specialist school but that they had been directed to view School A by the LA. The panel noted that there was no placement offer from School A and that the school was independent and thus cannot be named without an offer of placement. The panel also wanted further information from the school to ensure that the school was suitable. The school was therefore invited to join the hearing and the Headteacher joined to assist.

### **Background to the appeal**

9. The Child is now 7 years old and is attending the Learning Resource base at School B. The LA, in their decision letter, accept that the evidence is that the Child is regressing. They do not agree to have a move of placement as they consider more evidence is needed from the school. The parent is worried that the Child is regressing. The parent advises that the school cannot meet the Child's needs and have said that they need a 1:1 for them which the LA have not agreed to. They have stated that they often have to pick the Child up from school as the school cannot manage the Child. They wish the Child to have the support they need at a specialist school so that they can have their needs met. The parent states that the Child used to have some words but has regressed to having no means of communication at all. They wish for the Child to be able to communicate their needs as a minimum.

### **Issues**

10. The issues to be addressed are as follows:-
  - i. Has School A made an offer to the Child?
  - ii. Can School A meet the Child's needs and thus is it suitable?
  - iii. If School A is not suitable, what case management directions should be made?

### **Evidence and Reasons**

11. As a starting position, we find that the concession by the LA in their decision letter that the Child is not simply not making progress, but is actually regressing, to be a startling position and one that necessarily requires resolving. We find that this is clearly evidencing that the Child's additional learning needs are not currently being met.

12. We heard evidence from the parent, both parents and the Child have visited School A and that the Child instantly was happy there. They advised that it was the first time they had ever seen the Child “listening or looking at strangers” and that the staff were very good with them. They explained that with the therapists that the school have on site, particularly speech and language therapists, they were confident that the school could meet the Child’s needs.
13. We were provided with a bundle of 62 pages, in no particular order, by the parents. An up-to-date plan was requested, but the parents confirmed that we had all that they had. The panel therefore reviewed all of the documents and took evidence from both the parent and the Headteacher to satisfy ourselves what a suitable placement for the Child would be. We debated adjourning to ask the LA to provide more information, but due to their continued failures to comply with directions in this case, we considered that they were unlikely to comply and that this would simply cause more delay. We therefore proceeded with the evidence available as to do so was to deal with the case fairly and justly as there must be an end to litigation. Further, it is clear that the Child has already regressed from the summary of evidence by the LA so it is imperative that things are changed for them swiftly.
14. Following our request for more information, we were provided with School A’s prospectus and more information on the school. We also took comprehensive evidence from the Headteacher as to both the provisions available at the school and the cohort of students, particularly in the class of 7 that has been ear-marked for the Child. We find that the school clearly has the expertise, resources and relevant therapists on site to meet the Child’s needs. There is not an ideal peer group for the Child, but we accept that the peer group is suitable enough. We also find that the school is clearly going through a stage of transition and we would be hopeful that more similar peers will be joining the school in due course. We therefore find that the school is suitable.
15. As no alternative suitable school has been put forward, it cannot then be said that placing the Child at parents’ choice of school constitutes unreasonable public expenditure as there is no cheaper suitable option available. We therefore name parent choice of school.
16. Whilst we cannot be confident what the latest drafted plan states that The Child’s provisions should be, due to the LA’s failure to provide disclosure, from the various pages of documents (not necessarily in order or complete) that were provided by the parent, we note that the Child’s current placement has regularly called the parent to collect the Child from school as they could not manage their needs. We therefore make the recommendation that the Child is provided with 1:1 support until at least the point of the next annual review when this can be properly assessed. We do not make an order to this effect as provision was not part of this appeal.

## **Order**

It is ordered that:

The Local Authority place the Child in School A and amend their documentation to reflect this.

The Local Authority's officer who receives this decision, immediately forwards it to the Director of Education.

**Dated January 2024**