

Summary of decisions issued by the First-
tier Tribunal in National Trial cases:
anonymised summary of decisions issued
not subject to onward appeals Sept
2018– December 2018

Summary of decisions issued by the First-Tier Tribunal in National Trial Cases

Appeal number	YP	Grounds of appeal	Case summary	Outcome
1.	No	Section B, Section F, Section I Section G, Section H	<p>Background 11 years old and is currently in year 7 with diagnosis of quadriplegic Dyskinetic Cerebral Palsy, Gross Motor Function Classification System Level 4. Experiences epileptic seizures and has alternating esotropia, meaning that his left and right eye turn inward alternately. Difficulties with gross and fine motor skills, balance and co-ordination, functional vision, proprioception, sensory sensitivity, learning and communication.</p> <p>Sections B and F: issues</p> <ul style="list-style-type: none"> a. cognitive ability; b. the level of direct therapy to be provided; c. access to eye gaze technology and other high tech AAC devices; d. peer group; e. provision of 2:1 support; f. use of a powered wheelchair. <p>Section I: Whether the maintained special school was an appropriate educational placement. The suitability of non-maintained special was not in dispute and the key issue was whether naming would be an efficient use of the LA's resources.</p> <p>Health and Social Care: Sought changes to the description of his health and social care needs but did not seek substantive changes to the provision specified in Sections G and H.</p>	<p>Sections C, D, G and H The parties agreed changes to Section C and we moved material about visual impairment from Section C to Section B as we considered it an educational need, in this context. The parties agreed changes to Section D and we made some minor changes, which we felt reflected the evidence in the bundle as to social care needs.</p> <p>Parent's only issue with health and social care provision had been whether some of it should be categorised as educational provision. We did not have clear evidence about the minor additions she proposed. Therefore, we made no amendments to Sections G and H.</p> <p>Order. Appeal allowed. It is ordered that LA amend the Education Health and Care Plan</p> <ul style="list-style-type: none"> 1) In Sections B and F, by replacing the existing with the amendments set out in the appended working document 2) In Section I, by replacing the existing with the following: "A non-maintained special school (named)" <p>It is recommended that LA amend the Education Health and Care Plan in Section D, by replacing the existing with the amendments set out in the appended working document.</p>
2.	YP	Section B, Section F, Section I and Section H1 and H2	<p>19 year old with diagnosis of ASD and associated communication difficulties. Overall level of functioning is most likely to be less than or equal to a typical child who is not yet of school age. Appeal brought by YP supported by his mother and not represented at the hearing.</p> <p>Issues at date of hearing: the parties had resolved most of the outstanding issues in sections B and F. The remaining issues related to speech</p>	<p>Order <i>Appeal allowed in part.</i></p> <ul style="list-style-type: none"> 1) <i>In sections B and F by adding the amendments ordered by the Tribunal and set out by hand on the Working Document attached to this Order</i> 2) <i>Delete all references to waking day or extended day curriculum</i> 3) <i>In Section I setting: From September 2018: An independent specialist college for further education for young adults aged 19 to 25.</i>

			and language therapy provision; occupational therapy provision, the need for a waking day curriculum, length of the educational provision, together with recommendations in H1 and H2.	<p>4) <i>In section I School: From September 2018 College for 38 weeks a year as a weekly boarder.</i></p> <p>Recommendation in Sections H1 and H2</p> <p>43. <i>Direct payments to provide social care support for 25 hours per week outside term time” and “direct payments to provide social care support for 6 hours per week during term times”</i></p>
3.	YP	Section B, Section F Section I Health and social care	<p>19 years old. Just finished school and wanted to start college in September 2018. Global developmental delay. Some basic maths skills and is able to read and understand texts. Needs a lot of encouragement to complete tasks correctly. Struggles to listen in a group. Social interaction is not always appropriate and still needs support to take turns in conversation. Struggles to process verbal information and is prone to impulsive shouting out, which can be disruptive. Does not like noisy or busy environments. Often requires prompts for self-help tasks.</p> <p>Issues for determination: <i>A number of issues in relation to the content of Parts B and F but compromise was reached in relation to most, leaving some wording issues in relation to Part B and some significant issues for the panel to determine in relation to part F, including:</i></p> <p><i>a. whether YP requires a waking day curriculum,</i> <i>b. what support YP requires with activities of daily living,</i> <i>c. whether YP requires a behaviour programme.</i></p> <p><i>The Tribunal must also determine which educational establishment is to be named at Part I. Parental preference:</i> an independent specialist college for learners up to 25 years of age. The LA has declined to name independent college as it contends that to do so would be incompatible with its duty in relation to the efficient use of public funds. It accepts that independent can make appropriate provision and following assessed at independent college including an overnight stay, which was said to go well. He has been offered a place at independent college and the College feels that his needs could be met within its lowest tariff.</p>	<p>No finding as the suitability of the LA's proposals to meet special educational needs, but we conclude that even if both settings were found to be suitable, to name Independent specialist College at Part I of the EHC Plan would not represent an inefficient use of resources. This is the case whether or not the parents continue to transport him because the required 4 reasonably local journeys per term are not reasonably likely to make any significant difference to the cost of the provision over all.</p> <p>It is recommended that LA amend the EHC Plan to include at Section C a need during holidays from college for social inclusion in community activities and promotion of YP's interests and independence in pursuing them.</p> <p>As to Part H2, 12 hours has been proposed. This is not contested. Parents and Grandparents will also want to spend time with YP during holidays and so this is likely to be sufficient. We therefore recommend the inclusion of 12 hours social care support.</p> <p>Order</p> <p>Appeal is allowed in part.</p> <p>LA shall amend Parts B and F of YP's EHC Plan in accordance with the terms of the attached working document, and in accordance with the terms of the conclusions reached above.</p> <p>LA shall amend YP's EHC Plan at Part I to name a specialist independent college able to meet the needs of young people up to the age of 25.</p> <p>It is recommended that LA amend Part C of YP's EHC Plan with the inclusion of the following:</p> <p>“During holidays from college YP will require social care support for social inclusion in community activities and promotion of YP's interests and independence in pursuing them.”</p>

			<p>The LA also accepts that residential accommodation is required and it intends to provide this through shared social care accommodation with 3 or 4 peers with similar difficulties. Special educational provision would be delivered through attendance at local FE College. The LA contends that a waking day curriculum is not required. Parents feel that he does, because he has failed through a day placement at a special school to acquire vital independence skills, which will be key to his development into adulthood. If YP were to go to independent college during term times they would like YP to live at home during holidays. YP would need social care provision during these times in order to access the community and pursue YP's interests.</p> <p><i>Health and social care</i></p> <p>The Tribunal is asked to make non-binding recommendations in relation to the social care provision YP will need whichever educational setting is named. If he were to go to independent college this would mean only holiday provision for 14 weeks per annum. The LA suggests that 12 hours social care provision per week will meet YP's needs during holidays and this is not contested.</p>	<p>It is recommended that LA amend Part H2 of YP's EHC Plan with the inclusion of the following:</p> <p>"YP will receive 12 hours social care support per week during holidays from college."</p>
4.	YP	Section B, Section F Section I Section D, Section H1 and H2	<p>Aged 16 years 10 months and suffered an acquired brain injury following a spontaneous left intracranial haemorrhage which resulted in permanent visual, cognitive, physical, and language difficulties.</p> <p>Issues</p> <p>There are a number of unresolved disputes as to the wording in Section B, although most of the proposed amendments were agreed by the parties either prior to or during the hearing. The unresolved matters are discussed below.</p> <p>b) The extent of SALT provision and OT provision to be made.</p> <p>c) Whether a residential placement and a waking day curriculum are required?</p> <p>d) Whether YP should be taught in small classes supported by integrated therapeutic provision and within a peer group with similar difficulties?</p> <p>Whether the provision at FE College is a suitable placement?</p> <p>f) Whether independent college is a suitable placement?</p>	<p>The need for detailed recommendations regarding Section D and H1/H2 is also limited by our findings regarding Section F.</p> <p>We therefore recommend that Section D states that the Child In Need assessment be undertaken and a CIN and Care Plan issued. We recommend that Section H2 states that all the provision set out in the finalised CIN and Care Plan is provided by Social Services.</p> <p>ORDER</p> <p>1.) Section B and Section F should be amended in accordance with the attached Appendix.</p> <p>2.) The appeal in respect of Section I is allowed. Section I should state independent specialist college (38-week residential placement).</p>

			<p>g) If both placements are found to be suitable, what are the costs of each placement, and would it be incompatible with the efficient use of resources, or would it amount to unreasonable public expenditure, to name independent college in Section I?</p> <p>h) Should the Tribunal make recommendations in respect of Section D and Section H1/H2 and if so, what are those recommendations</p>	
5.	NO	<p>Refusal to make an EHC Plan</p> <p>Section C Section G Section D Section H1/H2</p>	<p>Background: 8 year old pupil in Year 3 at Primary School, which is a mainstream maintained primary school. Diagnosis of Autistic Spectrum Disorder (ASD) and receives support in school at SEND Support level. Statutory assessment undertaken in Spring of 2018 following a Tribunal decision. LA concluded an EHC Plan was not necessary.</p> <p>Issues. LA accepts that has special educational needs, although their description and extent is disputed. Tribunal is not asked to identify these needs or to decide what the necessary provision should be to meet those needs as part of this appeal.</p> <p>Health and Social Care Recommendations Parents requested recommendations to amend Sections C, D, G, H1/H2 of the EHC Plan. The Tribunal will consider the extent to which recommendations can be made once it has determined whether or not it is necessary for an EHC Plan to be issued.</p> <p>Outstanding issues to be considered were:</p> <p>i) Whether child needs a CYPS assessment from a mental health professional?</p> <p>ii) Whether child needs a structured sensory occupational therapy programme delivered by a fully trained occupational therapist as part of health provision?</p> <p>iii) Whether child needs a structured speech and language therapy programme as part of health provision?</p> <p>iv) Whether child is a Child in Need under s17 of the Children Act 1989 and if so whether provision under the Chronically Sick and Disabled Children Act 1970 required?</p> <p>v) If so, whether child requires implementation of the previous recommendations for PA support?</p>	<p>Having concluded that an EHC Plan is necessary we next considered whether or not it was appropriate to make any recommendations, in respect of health or social care. In respect of health, note that child has been awaiting assessment by mental health professionals through CYPS for well over a year and in view of the evidence from the school and the parents of inability to understand the consequences of actions, and the application of rules, we consider that it would be appropriate for child to be assessed. Our Recommendation is that in preparation for the drafting of the EHC plan, a CAMHS assessment is arranged within the next 6 weeks.</p> <p>We considered whether child needs a structured sensory occupational therapy programme delivered by a fully trained occupational therapist. No evidence that one has been devised or implemented. We are not able to order what should or should not be included in EHC Plan, as our jurisdiction in this matter is whether or not an EHC Plan is necessary. However, we recommend that a full occupational therapy assessment should be carried out including an educational setting to establish needs and corresponding necessary provision.</p> <p>We considered whether or not child needs a structured speech and language therapy programme as part of health provision. We were persuaded by the evidence that recommendations are currently being implemented successfully, and in addition we note that our jurisdiction does not at this stage extend to specifying what should be included in EHC Plan, only whether or not he should have one. Therefore, we make no further comment in this regard.</p> <p>In respect of social care, we first of all conclude that child is a Child in Need under s17 of the Children Act 1989. We therefore recommend that the LA review the conclusion of their Child in Need assessment, having considered their legal duty under legislation as opposed to any policy consideration and reconsider whether child should be defined as a disabled child. For the sake of clarity, we consider it necessary to explain that whilst we consider child to be a Child in Need, it cannot be assumed that provision will necessarily flow from a social care</p>

			<p>vi) Whether child requires a reassessment of social care needs to take account of violent and risk-taking behaviours?</p> <p>vii) Whether any other social care provision should be specified?</p>	<p>assessment at this point in time although we were not persuaded by the evidence that the withdrawal of the previous PA and respite support was withdrawn from the family for statutory reasons, with changes in policy and eligibility criteria. Therefore, our recommendation is that the previous PA and respite support should be reinstated.</p> <p>Order Appeal allowed It is ordered that the LA issue an EHC Plan. It is recommended that LA do the following to inform the Education, Health and Care Plan as follows; 1) To inform Section C, by ensuring that a mental health assessment of child is obtained</p> <p>2) To inform Section C, by ensuring that an occupational therapy assessment of child is carried out</p> <p>3) In Section D, by reinstating the previous PA and respite support provided by social care prior to its withdrawal in summer 2018.</p>
6.	NO	Section B, Section F Section D Section H1/H2	<p>14 years old. ASD and anxiety disorder and as a consequence has been out of education for a considerable period of time. New EHC Plan in previous LA. Family moved and new LA rewrote it using their particular format but their version is much more discursive and far less specific. This plan did not identify a school. Another final EHCP was issued naming a private school.</p> <p>Issues at the hearing The parties had been able to reach a measure of agreement as set out in the working document and there were further agreements reached during the hearing. Part B was agreed leaving Section F of the plan as, although Part E was not agreed, amendment of that is outside our remit.</p>	<p>We have adopted "Outcomes Meeting September 2017 (columns 3 -6) as representing Part F but we have struck out those parts not supported by the evidence, thus; Page 1 SALT 2 x 1 hour per week, Page 4 Occupational therapy 1:1 weekly Page 5 Support for anxiety issues to be met by staff not a Psychologist and key member of staff to have specialist training Page 6 SALT weekly and dietician as required Page 7 SALT weekly Social care: We make no recommendations regarding this and any reference to social care in the Outcomes meeting document shall be excluded. It is ordered that LA amend the Education, Health and Care Plan at Section F as set out above.</p>
7.	NO	Section B Section F Section I Section C Section G Section D Section H1/H2	<p>3 years old and has a diagnosis of Cerebrocostomandibular Syndrome (CCMS), breathes through a tracheostomy which she has had since the age of 3 months and uses a ventilator on BIPAP settings when she sleeps. Needs constant observation from someone fully trained in her care. Nutrition and water through a PEG gastrostomy several times during the day and overnight. Unable to vocalise because of tracheostomy and has a moderate bilateral hearing loss. No identified learning delay and is typically developing with play.</p>	<p>There were no outstanding issues in section B. Section F issues relate to her attendance at nursery but as the HCSW is funded by the CCG we consider that they should also be included in Sections G. Due to complex medical needs can only attend nursery if she has a 1:1 support by a Health Care Support Worker (HCSW) who is fully trained in tracheostomy and gastrostomy care. The HCSW is a health provision necessary to attend the nursery as tracheostomy requires constant supervision.</p>

		<p>Also, physically able and enjoys running, climbing, bouncing and riding wheely toys. Cannot be left with someone not trained in tracheostomy care as this would put life in danger. Currently attends a mainstream nursery, for 15 hours a week. Entitled to 30 hours of nursery provision but unfortunately the nursery does not have capacity to increase the number of hours offered. The LA has agreed to a dual placement in section I. Parent has identified a nursery but a place has not yet been offered by the nursery.</p> <p>Due to start school in September 2019. Supported at nursery on a 1:1 basis by a trained support worker who we have described in the EHCP as a Health Care Support Worker (HCSW). A support worker provides night time cover at home from 10pm to 7am.</p> <p>The main issues relating to the appeal are the level of cover for the 1:1 HCSW at the nursery during breaks and periods of absence, the training/ qualifications of support/ replacement for the HCSW and the availability of appropriately trained support staff; clarity on who will cover the 1:1 support in the education plan.</p> <p>With regard to social care provision: parent sought a review and clarity of the social care provision; consideration of the hourly rate of direct payments and whether this is sufficient to enable the appropriately trained cover to be purchased for respite care. Specifically seeking a recommendation that the LA funds the full agency rate to enable 4 hours of respite per week</p> <p>Issues at the hearing: Whether the CCG should commission that the agency supplying the HCSW has at least two or three fully trained HCSWs to cover nursery hours.</p> <p>In the event that there is no HCSW available to attend the nursery, who should provide back-up cover.</p> <p>Against which guidelines the competencies of the HCSW should be assessed.</p>	<p>Staff at Nursery have been trained by medical staff and are able to provide supervision for short periods during the HCSW's comfort breaks. Due to their existing commitments they are unable to provide 1:1 support and supervision if the HCSW is absent from work due to annual leave or sickness.</p> <p>HCSWs are sourced and paid for by the CCG. The CCG obtain HCSWs through approved agencies who meet the requirements of the CCG's commissioning board. The agencies may have different working practices and meet a number of different guidelines but all agencies must comply with the requirements of the CCG's commissioning board. Currently agency is commissioned to provide the HCSW. We understand that some agencies have arrangements whereby reciprocal cover is provided. The CCG is content with this practice so long as all staff meet the CCG's overall requirements.</p> <p>The agencies will have a spectrum of staff on whom they can call and place personnel who support child. They require specific training on child's medical needs. This includes the changing of tracheostomy, which on medical advice can only take place once a month. Parent considers that the agency commissioned to provide HCSW support should have at least three HCSWs to cover nursery hours as without this cover child cannot attend nursery and misses out on education. Missed a substantial number of days due to the lack of a HCSW. Initially, parent had requested that the agency contracted to provide the HCSW has a least two fully trained HCSWs.</p> <p>Parent also proposed that the training and assessment of competencies of the HCSW should be based on the Great Ormond Street Hospital clinical guidelines for tracheostomy care for long term ventilated children. Not persuaded that the training of the HCSW needs to be so narrowly defined and recognise that a number of professional organisations will have their own guidelines and competences. We consider that to include this in EHCP would be too restricting, and may limit the number of agencies that can be used. We are satisfied that it is sufficient that the HCSW's competencies are assessed by a suitably qualified nurse.</p> <p>It is not always possible for an agency to provide a HCSW despite reciprocal arrangements. Parent is proposing that a nurse should be sourced through the care agency and if a nurse was not available that the CCG should commission a tracheostomy competent paediatric nurse via an external agency. We preferred the wording proposed by the LA that if the contracted agency cannot provide a nurse the CCG will commission the contracted agency to source a nurse trained in</p>
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				<p>tracheostomy from other agency providers. We make a recommendation that:</p> <ul style="list-style-type: none"> • In the event that the HCSWs are not able to carry out the shifts, the CCG will commission that the contracted agency provide a nurse trained in tracheostomy to cover as 1:1 • In the event that the contracted agency cannot provide a nurse, the CCG will commission the contracted agency to source a nurse trained in tracheostomy from other agency providers. <p>Educational placement (Section I) This is not in dispute the LA has agreed that child can attend a dual nursery placement once another nursery has offered a place. However we have described the type of placement as “a mainstream nursery” as this had not been included in EHCP.</p> <p>Health provision (Sections G) Set out above</p> <p>Social care provision (Sections H1/H2) The parties agreed at the tribunal that, to the wording set out in section H1 to provide respite care for parents.</p> <p>Order The appeal is allowed in part. It is ordered that LA amend the Education, Health and Care Plan as follows:</p> <ol style="list-style-type: none"> 1) In Section B, by replacing the existing wording in the EHC Plan with the amendments set out in the attached final working document 2) In Section F, by replacing the existing wording in the EHC Plan with the amendments set out in the attached final working document 3) In Section I, by adding “a mainstream nursery” under Type of Placement. <p>It is recommended that LA amend the Education, Health and Care Plan as follows;</p> <ol style="list-style-type: none"> 1) In Section C, by replacing the existing wording in the EHC Plan with the amendments set out in the attached final working document 2) In Section E, D and G, by replacing the existing wording in the EHC Plan with the amendments set out in the attached final working document 3) In Section D, (but included in section F of EHCP): <ul style="list-style-type: none"> • The CCG should commission that the agency contacted has three (3) fully trained HCSW to cover nursery hours. • In the event that the HCSWs are not able to carry out the shifts, the CCG will commission that the contracted agency provide a nurse trained in tracheostomy to cover as 1:1
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				<p>• In the event that the contracted agency cannot provide a nurse, the CCG will commission the contracted agency to source a nurse trained in tracheostomy from other agency providers.</p> <p>4) In Section H1, by replacing the existing wording in the EHC Plan with the amendments set out in the attached final working document</p>
8.	NO	Refusal to make an Education Health and Care (EHC) Plan Section C Section G Section D Section H1/H2	<p>Background</p> <p>10 years old and is a pupil in Year 6 at a mainstream maintained primary school. He has a diagnosis of Autistic Spectrum Disorder (ASD) and receives support in school at SEND Support level.</p> <p>By the date of the hearing, there remained the following issues for consideration:</p> <p>i) What are the nature and extent of special educational needs?</p> <p>ii) What special educational provision is he receiving?</p> <p>iii) What progress has he made with the special educational provision?</p> <p>iv) Does he require additional special educational provision, and if so, what?</p> <p>v) Can the special educational provision required reasonably be provided from within the resources normally available to mainstream schools or is it necessary to make the provision in accordance with an EHC Plan?</p> <p>vi) Are any recommendations necessary in respect of social care provision?</p> <p>vii) Are any recommendations necessary in respect of health provision?</p> <p>Health and Social Care Recommendations</p> <p>The parents requested the Tribunal make recommendations to amend Sections C, D, G, H1/H2 of the EHC Plan. At this time no EHC plan has been issued. The Tribunal's jurisdiction in an appeal against a refusal to make an EHC Plan, extends only to decide whether such a plan should be made and not its contents. We will consider the extent to which any recommendations can be made once it has determined whether or not it is necessary for an EHC Plan to be issued.</p> <p>At the start of the hearing it was identified that the outstanding issues to be considering making a Recommendation under the National Trial were:</p>	<p>Can the necessary provision to meet all of child's needs be made by a mainstream school from within its own resources? On the basis that the cost of implementing the recommendations of the LA's own professionals would be significantly in excess of the notional SEN budget of £6000, coupled with the fact that he will be transitioning to secondary school during the lifetime of this EHC Plan, we conclude that on balance an EHC Plan is necessary to enable all of his special educational needs to be met.</p> <p>Social Care and Health Recommendations</p> <p>Having concluded that an EHC Plan is necessary, we next considered whether or not it was appropriate to make any recommendations in respect of health or social care. In respect of health, we note that child has been awaiting assessment by mental health professionals for well over a year and we consider that it would be appropriate for him to be assessed, given the evidence of his tendency to self-harm at home, coupled with his levels of anxiety. Our Recommendation is that in preparation for the drafting of the EHC plan, a CAMHS assessment is arranged within the next 6 weeks.</p> <p>In respect of social care, we first of all conclude that child is a Child in Need under s17 of the Children Act 1989. We therefore recommend that the LA review the conclusion of their Child in Need assessment, having considered their legal duty under legislation as opposed to any policy consideration and reconsider whether child should be defined as a disabled child. For the sake of clarity, we consider it necessary to explain that whilst we consider him to be a Child in Need, it cannot be assumed that provision will necessarily flow from a social care assessment at this point in time.</p> <p>Order</p> <p>LA to make and maintain an EHC Plan.</p> <p>It is recommended that the LA undertake the following to inform the Education, Health and Care Plan as follows;</p> <p>1) To inform Section C, by ensuring that a mental health assessment is obtained</p> <p>2) To inform Section C, by ensuring that an occupational therapy assessment of is carried out</p> <p>3) In Section D, by reinstating the previous PA and respite support provided by social care prior to its withdrawal in summer 2018</p>

			<p>i) Whether a CYPS assessment from a mental health professional is necessary</p> <p>ii) Whether a sensory programme as part of health care provision is required</p> <p>iii) Is child a 'Child in Need' under s17 of the Children Act 1989 and if so, does he need provision under the Chronically Sick and Disabled Persons Act 1970</p> <p>iv) Is it necessary for social care provision to be specified and in particular, whether respite provision and PA support which has been withdrawn should be reinstated</p>	
9.	YP	<p>Section I</p> <p>Section D</p> <p>Section H1/H2</p>	<p>Background</p> <p>Born prematurely and a moderate learning disability, cerebral palsy with bilateral spasticity predominately affecting his legs. Has had a number of operations to improve mobility and positioning. Profoundly deaf and has Bilateral Cochlear Implants. Completely deaf without the use of two cochlear implants. Unable to use sign language due to cerebral palsy and the effect it has upon hands. Can understand sign language and can lip read.</p> <p>This appeal requested the Tribunal make recommendations under concerning Section D (social care needs) and Section H1/H2 (social care provision).</p> <p>Section F, Version 8 of the Working Document clearly states that YP requires a waking day curriculum. Giving that this is agreed, the only remaining issue is whether YP receives a combination of college and social care, such as LOCAL FE College state they can provide, or whether YP requires a residential placement, which Specialist independent college can provide.</p>	Appeal Allowed.
10.	YP	<p>Section B</p> <p>Section F</p> <p>Section I</p> <p>Section D</p> <p>Section H1</p>	PtA received	
11.	NO	<p>Section B</p> <p>Section F</p> <p>Section I</p> <p>Section C</p> <p>Section G</p>	<p>Background</p> <p>12 years 2 months old and experiences high anxiety and social communication difficulties. Evidence following a recent clinical psychology assessment suggests that she has a diagnosis of Asperger's Syndrome. This has been confirmed to parents orally following a holistic medical assessment</p>	Confirmed at the start of the hearing that they were no longer seeking that the Tribunal make a Recommendation concerning Health needs or the provision required to meet those needs. During the course of the Tribunal appeal, any concerns raised had been successfully addressed and the LA had agreed to specify a programme of CBT delivered by

			<p>which will be confirmed in writing imminently. Has not been attending school since September 2017.</p>	<p>CAMHS in Section G of the EHC plan. Agreed wording is included in the final working document.</p> <p>The appeal is allowed.</p> <p>It is ordered that LA amend the Education, Health and Care Plan of as follows:</p> <p>1) In Section B, by replacing the existing wording in the EHC Plan with the amendments set out in the attached final working document</p> <p>2) In Section F, by replacing the existing wording in the EHC Plan with the amendments set out in the attached final working document</p> <p>3) In Section I, by replacing the existing wording with the following: <i>“An independent special school placement. [school named].”</i></p> <p>It is recommended that LA amend the Education, Health and Care Plan:</p> <p>1) In Section G, by replacing the existing wording in the EHC Plan with the amendments set out in the attached final working document.</p>
12.	NO	<p>Section B</p> <p>Section F</p> <p>Section I</p> <p>Section C</p> <p>Section G</p> <p>Section D</p> <p>Section H1/H2</p>	<p>Background</p> <p>14 years old and has a diagnosis of ASD and also of ADHD</p> <p>Agreed that the issues had narrowed, and as child was out of school until the Tribunal made a decision on the remaining areas in dispute, it was important the case was determined as soon as possible. They agreed it could proceed as a paper hearing without attendance of either party and without oral evidence being given, as this would enable the case to be listed sooner. The Tribunal therefore considered the written evidence in the Tribunal bundle.</p> <p>Sections B and F of the EHC plan. The outstanding issues identified at the start of the hearing which the Tribunal needed to decide included;</p> <p>a. The description of special educational needs in Section B and the specification of the special educational provision (including therapy) required to meet those needs in Section F having considered parents' proposed amendments and any agreements reached between the parties</p> <p>b. Whether there were other amendments indicated by the evidence before us which should be made to Section B and/or F</p> <p>Recommendations to amend Sections C, D, G, H1/H2 of the EHC Plan.</p>	<p>Appeal is allowed in part.</p> <p>It is ordered that LA amend the Education, Health and Care Plan as follows:</p> <p>1) In Section B, by replacing the existing wording in the EHC Plan with the amendments set out in the attached final working document</p> <p>2) In Section F, by replacing the existing wording in the EHC Plan with the amendments set out in the attached final working document, specifically the parental wording for the delivery of Speech and Language Therapy and Occupational therapy.</p> <p>We do not make any other recommendations to amend the existing agreed wording of the EHC Plan in respect of Sections C,D,G or H.</p>

			<p>a) To amend the description of her health needs to include all her existing health needs</p> <p>b) To include information obtained as a result of a social care assessment that was being carried out</p> <p>c) To identify the social care provision to meet the needs identified in that social care assessment.</p> <p>At the hearing: still some matters to be decided in relation to Sections B and F, and these were largely in relation to the provision of both Occupational Therapy and Speech and Language Therapy to be delivered in school.</p>	
13.	YP	Section I	<p>Background</p> <p>17 years of age and has just commenced Year 12. Diagnosis of Worster-Drought syndrome which is a mild form of cerebral palsy and affects the facial area in particular. Also has Attention Deficit Hyperactivity Disorder and has been diagnosed as being on the autistic spectrum. The combination of these conditions means YP experiences difficulty in learning, particularly ability to independently access the curriculum and also difficulties in managing behaviour.</p> <p>Attended a number of schools until moved to final placement in September 2012. Took about two years to settle into the placement at a specialist school and college, being a non-maintained special school for children with ASD and complex needs. It caters for students up to the age of 19 and the school confirmed their offer to maintain YP's place until July 2021, which would be the end of Year 14. It is the clearly expressed wish of YP and his mother that he should remain at placement until then.</p> <p>Sought recommendations from the Tribunal with regard to both Health and Social Care provision.</p> <p>Originally listed for an oral hearing, there had been difficulties in complying with the timetable set by the tribunal. During the appeal process the parties reached a measure of agreement and a Case Management hearing took place to identify the outstanding issues, during which the parties agreed the case could proceed as a paper hearing</p>	<p>Although the appeal did not ask us to deal with sections B and F, we find that as a consequential amendment it would be appropriate to include the diagnosis in section B for clarity and consistency. Section D, we found it very difficult to ascertain exactly what assessments had been carried out by social care and the statutory nature of these assessments.</p> <p>We were however of the view that given YP's age, planning for transition to adult services should already be underway. We therefore felt that if it had not already been undertaken, then a needs assessment and a carer's assessment under the Care Act needed to be completed as soon as possible</p> <p>We also recommend that it would be helpful if the social worker undertaking those assessments attended the annual review as well as any EHC planning meetings.</p> <p>Order</p> <p>The appeal is allowed and the Tribunal orders:</p> <p>a) that the local authority shall amend section B of the Education Health and Care Plan to include "<i>an autistic spectrum disorder diagnosis and anxiety disorder diagnosis</i>" as part of his special educational needs;</p> <p>b) with regard to section I we order that the plan shall be amended to name [current placement] Specialist School and College, a non-maintained special school, to be the named provision.</p> <p>The Tribunal recommends:</p> <p>a) that Section C of the plan should be amended to include an autistic spectrum diagnosis and anxiety disorder diagnosis;</p> <p>b) that section D of the plan should include an updated Child and Family assessment, if one has been completed, together with a needs assessment and carer's assessment under the Care Act together with</p>

			<p>Specifically, with regard to health she wished to have the diagnosis of autism and also anxiety disorder included in both the description of needs in the education section and also in the health section.</p> <p>It was noted that the LA did not dispute these additional descriptions being included in principle but were awaiting a confirmatory letter from CAMHS.</p> <p>Social care: wanted a full social care assessment and provision to be included in the EHC Plan.</p> <p>Not clear whether the LA was asking the tribunal to direct in the order that the placement should only be for one year and that there should be an ongoing transition plan to another placement. We concluded that the appeal before the tribunal was only in relation to Section I and was in effect concluded by consent, and that this had been evident at the case management hearing on 26 August when the local authority had conceded the placement.</p>	<p>any relevant information concerning any transition to the Adult Social Care Team including personal budgets;</p> <p>c) that the assessing social worker should contribute to any EHC Plan reviews and planning meetings</p>
14.	YP	<p>Section I</p> <p>Section C</p> <p>Section G</p> <p>Section D</p> <p>Section H1/H2</p>	<p>Background</p> <p>24 years of age and has a diagnosis of Neurofibromatosis type 1. This is a genetic neurological disability diagnosed in 2001. He also has an associated autistic spectrum disorder, a social phobia and anxiety. Has had a complex educational history, starting at mainstream infant and junior schools, having some "education otherwise", and attending various centres being parts of the Hospital Special Schools. Also attended Colleges but did not consider received sufficient support to progress at either college. Did complete a course in 2014 at FE College, but took 2 years to complete a 1-year course.</p> <p>Statement of special educational needs had ceased when was 19 years of age, and self-referred for an EHC Plan needs assessment in May 2017.</p> <p>Issues for decision</p> <p>During the course of the tribunal process, the LA had agreed that YP could attend choice of college, an independent specialist college rather than vocational College which had been the LA's preferred option. Attendance had commenced in September 2018 and was attending 3 days a week, although, as this was an access type course, the parties hoped may be able to progress to some other vocational or educational provision at a later stage.</p> <p>Issues</p>	<p>Leave is given to withdraw his appeal.</p>

			<p>Sections B and F were not, and had never been, in dispute. Section I was no longer in dispute. The issue remaining in dispute was whether social care needs should be met at the college, or by other means. The Tribunal queried whether it was being argued that this amounted to educational provision on the basis that a waking day curriculum was required.</p> <p>YP rep immediately and properly conceded that there was no educational need for residential provision. The Tribunal sought clarification from the parties as to exactly what they were asking the Tribunal to do, given that Section I was agreed and implemented, and under the National trial we could not determine a free-standing application to make recommendations relating to health or social care. It was conceded that nothing was in fact being sought in respect of health.</p> <p>It was also accepted that the Tribunal could not order one type of social care provision in preference to another, but only make a recommendation. In practical terms, even if it was argued the tribunal did have jurisdiction to consider social care in isolation, it would not be feasible for the Tribunal to do so as no assessments had yet been undertaken and it was therefore not known what type of provision was going to be available, nor which (if more than one feasible option) could meet child's needs, nor any potential costs comparison.</p> <p>YP rep accepted the Tribunal was not in a position to make any determination and sought leave to withdraw the appeal.</p>	
15.	YP	<p>Sections B, F and I Section C Section D, Section G Sections H1 and H2</p>	<p>Background A complex presentation of special educational needs. This includes a diagnosis of autism, a severe language impairment and a clinical anxiety disorder including periods out of school due to anxiety. Attended an independent special school approved by the Secretary of State under section 41 of the Children and Families Act 2014. Started on a fortnightly boarding basis but from September 2016, was struggling with the travelling. Requested termly boarding but this was initially refused by the LA and there was a period when parent stayed in a local bed and breakfast to avoid the journey.</p> <p>Issues</p>	<p>YP does require a waking day curriculum. Beh programme: we considered that the important feature was that the person delivering the programme had relevant training and supervision and we could see that there would be advantages to this being delivered by a staff member who works with child throughout his school day. We amended Section F accordingly. In Section F we considered the question of the single room. Section F (in the parts already agreed) already included this wording: <i>"He will also need the availability of an Individual space to enhance his concentration for formal work and to minimize distraction for focused independent work."</i> We concluded that this should be extended so that this "individual" – or as we preferred to say "private" space would be available throughout his waking day and amended Section F accordingly. However, we considered that this did not amount to same</p>

		<p>By the conclusion of the hearing, some elements of the plan were agreed the final position being as follows: Section B agreed; Section C was agreed other than one amendment about the difficulties has had with his teeth, which the LA did not accept was related to his special educational needs; Section D was entirely agreed; Section F was agreed other than in relation to three issues: (1) does YP need a waking day curriculum, i.e. is a residential placement required on educational grounds;</p> <p>(2) in relation to an agreed element of the special educational provision - a positive behaviour and anxiety management programme – the parties did not agree about who would be responsible for the weekly delivery psychologist who devised the programme who would also deliver it; the LA's position was that it could be delivered by a member of staff with ELSA or equivalent training); and</p> <p>(3) YP was asking for the need for a single room to be included as special educational provision in F; Section G was agreed; Section H1 was agreed; Section H2 there were two issues; it was the local authority's position that the residential aspect of the placement should appear in Section H2 because it amounted to social care provision (i.e. and not in F); similarly the local authority was saying that the reference to the single room should appear in H2 and not in F for the same reason; and Section I was agreed (i.e. named on the basis of a 38 week termly residential placement).</p> <p>What orders should be made about the agreed parts of Sections B, F and I;</p> <p>What recommendations, if any, the Tribunal should make about the disputed parts of Sections C and H2 as described above (to some extent this depended on our conclusions in relation to Section F);</p> <p>What recommendations should be made about the agreed parts of Sections C, D, G, H1 and H2</p>	<p>thing as saying that a single room, in terms of the description of his accommodation, itself was special educational provision.</p> <p>We had accepted the waking day curriculum which means that the placement is residential. But how the rooms within the residential setting are organised appeared to us to be a feature of how the residential setting organises itself. We considered this point further below in the context of our conclusions about Section H2.</p> <p>We were satisfied that the amendments the parties have agreed reflected the evidence and that the agreed amendments to Section F, together with the amendments in accordance with our conclusions above, should form part of our order. All of these amendments are now contained in the Appendix to this order.</p> <p>Section I</p> <p>We reviewed the evidence about placement and we were satisfied that the agreement the parties have reached (now set out in the Appendix to this order) about Section I was appropriate and should form part of our order.</p> <p>Health care needs and health care provision (Sections C and G)</p> <p>Section C was agreed subject to wording about issues with his teeth. We were satisfied based on our expertise and the evidence we heard that these difficulties are related to YP's special educational needs, i.e. specifically autism and learning difficulties. Accordingly, we have accepted the amendment to Section C.</p> <p>Section C and Section G (all of which were agreed other than the one amendment we had decided to add) and concluded that they reflected the evidence and we concluded that Sections C and G as set out in the Appendix, which incorporates the agreed amendments, should form part of our recommendations.</p> <p>Social care needs and social care provision (Sections D and H1/H2)</p> <p>Given that we have accepted that child requires a waking day curriculum, the references to the residential placement currently in H2, should, in our recommendation, be removed as it would be confusing to have the provision repeated in two sections of the plan. Further, since we have accepted that it is special educational provision, because it educates and trains, it is to be treated as such <i>instead of</i> social care provision (as provided by Section 21 (5) of the Children and Families Act 2014). Our amendment therefore here is a deletion of the</p>
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				<p>relevant wording in Section H2 and we have made some minor consequential amendments to this deletion.</p> <p>In relation to the requirement for the single room, LA had accepted that this was required at the hearing, as social care provision. We concluded that this was social care provision reasonably required by YP's learning difficulties and disabilities and amended Section H2 accordingly.</p> <p>Sections D and H1 and H2 (all of which were agreed). We noted that they reflected the evidence and we concluded that Sections D and H1 and H2 as set out in the Appendix, which incorporates the agreed amendments, should form part of our recommendations.</p> <p>ORDER LA to amend EHC plan as follows:</p> <ol style="list-style-type: none"> 1. By deleting Sections B and F and replacing them with the Sections B and F set out in the Appendix to this decision; and 2. In Section I, by deleting the current contents and replacing it with the Section I set out in the Appendix to this decision. <p>Recommendations It is recommended that the LA amends the Education, Health and Care Plan as follows;</p> <ol style="list-style-type: none"> 1. In Section C, by replacing the existing wording with the amendments set out in the Appendix to this decision; 2. In Section G, by replacing the existing wording with the amendments set out in the Appendix to this decision; 3. In Section D, by replacing the existing wording with the amendments set out in the Appendix to this decision; 4. In Section H1, by replacing the existing wording with the amendments set out in the Appendix to this decision; and 5. In Section H2, by replacing the existing wording with the amendments set out in the Appendix to this decision.
16.	NO	Section C Section G	<p>Background 10 year old who is in year 6 at a special free school. Diagnosis of PLMD and ASD with complex difficulties in the areas of social interaction and behavioural difficulties, non-verbal.</p> <p>The following issues for consideration: i) The description of special educational needs in Section B of the EHC plan;</p>	<p>It is ordered that LA do amend the EHC Plan as follows:</p> <ol style="list-style-type: none"> 1) In Section B, by replacing the existing with the amendments set out in the final working document. 2) In Section F, by replacing the existing with the amendments set out in the final working document. 3) In Section I, by replacing the existing with the following: "A special school placement. [named school], from January 2019"

			<p>ii) The description of special educational provision in Section F of the EHC plan;</p> <p>iii) The parents request that the following recommendation be made in respect of Section C – information in respect of weight</p> <p>iv) The parents request that the following recommendation be made in respect of Section G – to include activities such as swimming and input from a school nurse/dietician.</p> <p>At the start of proceedings Section I was also at issue. The issues around Section I have been resolved between the parties.</p> <p>The parties had been able to come to a considerable amount of agreement in relation to Sections B and F. However, there were still a few matters to be resolved.</p> <p>The request with regard to Section G was also no longer at issue.</p>	<p>It is recommended that LA do amend the EHC Plan as follows: i) In Section C replace the existing wording with that as set out in the final working document.</p>
17.	NO	Refusal to make an EHC Plan social care provision	<p>Background</p> <p>13 years old and is currently in year 9 at a mainstream academy school. Diagnosis of ADHD at 6 years old.</p> <p>The only education issue was whether it was necessary for the LA to issue an EHC Plan in order to make special educational provision.</p> <p>There were no health issues.</p> <p>The only social care issue was whether child should have support from a youth worker.</p>	<p>Not necessary for the LA to issue an EHC Plan. An EHC Plan would create legal obligations and a requirement for annual review, but what is required is more of a shift in approach. An EHC Plan is not necessary in order to ensure that this happens.</p> <p>Child is receiving support from a family worker who has made positive Suggestions. Parents were not able to explain what a youth worker would provide in addition to the services already being provided to the family. In the absence of any evidence to the contrary, we accept the view in the social care assessment that the support being provided is sufficient and that a youth worker would not add anything.</p> <p>Order</p> <p>Appeal dismissed.</p>
18.	YP	<p>Sections B, F and I</p> <p>Section C</p> <p>Section G</p> <p>Section D</p> <p>Section H1/H2</p>	<p>During the appeal period and at the hearing the parties reached full agreement on all issues.</p> <p>The parties notified that an undertaking had been given for LA to issue an amended EHCP in the form agreed and that they no longer sought a determination or order by the Tribunal.</p> <p>The Tribunal observes that the parties' agreements have followed consideration during the period of the appeal which has afforded discussion between the parties and their witnesses and opportunity to reflect on the specification now agreed.</p> <p>The Tribunal accepts the circumstances of the withdrawal and finds it appropriate.</p>	<p>Order</p> <p>Tribunal consents to YP's appeal being withdrawn.</p> <p>No order for costs.</p>

19.	YP	<p>B and F Section C Section G Section D Section H1/H2</p> <p>suitable for consideration on the papers and consented to conclude the appeal without an oral hearing.</p>	<p>Background 19 years old and has a diagnosis of autism spectrum condition. First referred to Educational Psychology Service at the age of 5 and again a number of times subsequently due to concerns about ongoing difficulties with social communication, organisation and learning. Underlying cognitive abilities fall within normal limits with spoken language and verbal reasoning skills on the average/high average cusp. Difficulties include organisation of and recording of work, struggles with peer relationships and social communication, anxiety and low mood. In second year of college undertaking Level 3 Diploma in Creative and Performing Arts, a practical vocational program, equivalent to 3 A Levels. Previously attended a mainstream secondary school and stayed on to complete a one-year course in the 6th form. Thereafter successfully completed a Level 2 Diploma in Performing and Production Arts.</p> <p>Issues (i) <i>Special Educational Needs / Provision</i> Section B: description of sensory and physical difficulties and ability to undertake everyday tasks of independent living. Section F: not sufficiently specific (SMART) provision in particular in preparation for adulthood. Consequential changes to Section E (Outcomes) following upon their determination of the Part B and F issues (ii) <i>Health and Social Care</i> <i>Health Needs /Provision</i> Sleep disorder, diet imbalance, sensitivity to noise, restricted and repetitive behaviour, OCD behaviour, difficulties identifying emotions and anxiety and depression not properly identified and described, nor that the impact of them upon access to education sufficiently recognised. (b) <i>As regards his Social Care Needs/ Provision</i> Social Care Needs were understated, that (at the time of Appeal) the LA had failed to arrange a social care needs assessment care support to be specified in Section H Recommendations to amend Sections C D G H1 and H2 of the EHC plan. Issues that remained in dispute as regards both Educational Needs and Provision and the Recommendations sought with regard to Social Care and Health Needs and Provision were as set out in the latest working document.</p>	<p>Order In Section B and Section F, by replacing the existing wording in the EHC Plan with the amendments set out in the attached final working document and It is recommended that LA amend the Education, Health and Care Plan as follows; In Section G to include a provision that any recommendations resulting from assessments pursuant to the GP's referrals are to be given due consideration for inclusion in the Plan In Section H 2. to include the provision of a key worker and to provide support to promote participation in a range of social and leisure activities</p>
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20.	NO	<i>Refusal to make a plan Health and Social care needs and provision</i>	<p>Background 12 years and 2 months old and has a diagnosis of Autism, ADD and Dyslexia. High levels of anxiety and frustration, has needs associated with social communication and understanding and sensory difficulties. Attended a mainstream secondary school. Before this he had not been in school since the first few weeks of September 2017 due to his high levels of anxiety. The parties confirmed that there was no dispute as to the nature and extent of special educational needs. Dispute is the level, frequency and delivery of provision and whether this can and will be delivered from the resources of a mainstream school and whether an EHC plan is necessary. At the start of the hearing the Tribunal panel identified for the parties that the issues for consideration in the appeal were: a. The special educational provision required to meet special educational needs as identified during the EHC assessment and in any additional evidence b. Whether it is necessary for special educational provision to be made in accordance with an EHC plan</p> <p>Health and Social Care Recommendations At registration, recommendations sought under the National Trial that: health needs were fully described in any EHC plan ordered to be issued and that health provision was included that he requires Sensory Occupational Therapy involvement, support to manage his anxiety, help to improve his independence, CBT therapy and activities to promote self-confidence. Social care needs were fully described in any EHC plan ordered to be issued and social care provision is specified to enable him to access external organisations to improve confidence, self-esteem and integrate into the community eg rugby, Climb centre and other organisations. At the hearing parents confirmed that since the original appeal was registered a Sensory Occupational Therapist has assessed. A report specified sensory needs and the provision required. Parents confirmed that this was no longer an outstanding issue for the Tribunal to decide and they were not asking for a Recommendation for SI assessment. Also, some support received from CAMHS but his case there has now closed. Parents no longer seeking a Recommendation be made on this issue or any others concerning Health.</p>	<p>It is necessary for the LA to issue an EHC plan to ensure adequate special educational provision. Social care needs and social care provision (Sections D and H1/H2) Request for direct payment to the family so that they can arrange support to attend a mainstream activity which would currently be a rugby club.</p> <p>Accepted by the LA, as a response to case management directions issued by the Tribunal when the appeal was registered, that child is a disabled child under social care legislation. This automatically makes child a child in need and therefore an assessment of care needs must be carried out under the Children Act 1989 s.17.</p> <p>We were very concerned to learn that the LA seemed to have a policy which would not support a disabled child to access mainstream activities.</p> <p>Social care support that parents are requesting is not excessive and is a provision that falls within the services that fall under the Chronically Sick and Disabled Persons Act 1970 section 2. It is our Recommendation that the LA put an arrangement in place for child to be supported as requested by parent. Provision of a direct payment will ensure that parents can employ someone whom they prefer. This will allow the flexibility in the arrangement should child no longer wish to attend a rugby club and goes to an alternative activity or if he no longer wants to be supported by a particular individual.</p> <p>Order The appeal is allowed. It is ordered that: LA issue an Education, Health and Care plan.</p> <p>It is recommended that; 1. LA make a direct payment to parents to allow child to be supported 6 hours per week to attend a mainstream leisure activity of his choice.</p>
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			Parents were still seeking a Recommendation that the LA provide funding through a direct payment to provide support to attend a Rugby Club once per week. This would need to be for a total of 6 hours per week to include travel to/ from practices and matches.	
21.	NO	<i>Refusal to make a plan</i>	PtA	
22.	YP	Section B Section F Section I. Section C Section G Section D Section H1/H2	<p>Capacity – At the start of the hearing, the Tribunal raised with the parties the issue of capacity. It was agreed by the Tribunal that YP lacked capacity to make decisions about the content of the EHC Plan and lacks capacity to bring these proceedings herself. Parent is an alternative person to conduct appeal proceedings in accordance with regulation 64 of the Special Educational Needs and Disability Regulations 2014 (the Regulations). Therefore, decisions in best interests as set out in s4 Mental Capacity Act 2005 and Chapter 5 of the Mental Capacity Act Code of Practice. The appeal is as a consequence in the name of alternative person.</p> <p>Background 16 years old and has a diagnosis of ADHD, mild learning difficulties, anxiety, daytime enuresis and also has difficulties with social skills. Difficulties are becoming increasingly apparent. Pupil at Community College, where she achieved one GCSE grade 1 in English Language</p> <p>Issues at the hearing One issue in Section F: The description of special educational needs in Section B and the specification of the special educational provision required to meet those needs in Section F. In particular whether a 3-day placement meets needs, or whether additional provision required on the two remaining days. b. Whether assistance needed with transport to College c. Whether there were other amendments which should be made to Section B and/or F</p> <p>NT issues Include reference to counselling for anxiety, her ongoing urinary incontinence and dental problems b. To include a transition plan for transfer from child to adult services to include the health care provision identified by the reports</p>	<p>We find the LA's volte face in its approach to this appeal between the provision of the position statement on 23 November 2018 and the hearing to be troubling. Having attended expecting to be hearing about a variety of alternative two-day placement options, but instead being met with an intransigent position that nothing beyond a three-day placement was on offer, despite all the previous indications to the contrary.</p> <p>Accepted LA's previous position statement that there was an acceptance within the LA that an additional two days was necessary. The 3-day provision at FE College is meeting needs on those days, but needs provision to take place across 5 days.</p> <p>We are not asked to reopen Section I as part of this appeal, but we are mindful of the provisions of s33 of the Children and Families Act 2014 and the right to a mainstream education, and we consider that there are a significant number of reasonable adjustments which could be made by the LA, but which have not yet been explored, to enable YP to continue to attend the mainstream college of her choice.</p> <p>Accordingly, we specify 5 day post-16 provision to include repetition and overlearning of core functional skills in maths and English in Section F of the EHC Plan.</p> <p>This is an exceptional case where YP has particular transport needs and therefore transport needs to be recorded in EHC Plan.</p> <p>Health care needs and health provision (Sections C and G) Additions to these sections were agreed between the parties during the hearing and those agreements are reflected in the working document attached.</p> <p>Social care needs and social care provision (Sections D and H1/H2) In respect of social care, we have deleted some narrative sections which were lifted from the Social Care report but which do not set out needs in Section D.</p> <p>We note that despite the directions of the Tribunal dated 4 September 2018, the LA has not considered whether or not YP is a Child in Need under the Chronically Sick and Disabled Persons Act and whether she can be considered a disabled child. We first of all conclude that YP is a Child in Need under s17 of the Children Act 1989. We reach this</p>

			<p>c. Social care services to identify any further social care provision required to meet needs and for that provision to be specified in the EHC Plan</p>	<p>conclusion because she has a diagnosis of ADHD which is a lifelong disabling condition and we accept that she has substantial needs over and above those of a typical child of the same age.</p> <p>We therefore recommend that the LA reclassify YP as a child in need and, although whilst we consider YP to be a Child in Need we do not make any recommendation that provision necessarily flow from this classification.</p> <p>We note that the provision sought is primarily education and training and therefore not social care provision, although we agree with the findings of the social care assessment that YP needs the support sessions provided by the youth worker. We do not find it appropriate to cease such intervention on the basis that the young person does not appear to be implementing the knowledge, particularly given that repetition and overlearning is exactly what is asked for. We therefore recommend that these sessions be reinstated and delivered at a pace and with a level of repetition and overlearning appropriate to learning style.</p> <p>Order :The appeal is allowed</p> <p>It is ordered that LA amend the Education, Health and Care Plan as follows:</p> <p>1) In Section B, by replacing the existing wording in the EHC Plan with the amendments set out in the attached final working document</p> <p>2) In Section F, by replacing the existing wording in the EHC Plan with the amendments set out in the attached final working document</p> <p>It is recommended that LA carry out a child in need assessment and amend the Education, Health and Care Plan as follows; In Section C, G, D, H1 and H2 by replacing the existing wording in the EHC Plan with the amendments set out in the attached final working document</p>
23.	NO	<p>Section B</p> <p>Section F</p> <p>Section C</p> <p>Section D</p> <p>Section G</p> <p>Section H1/H2</p>	<p>13 years 5 months. Diagnosis of High Functioning Autism and Generalised Anxiety Disorder. Sensory processing and attention difficulties, and symptoms of OCD and ADHD, along with other special educational needs. Mental health needs are most concerning need at present. Out of full-time education for almost two years following the breakdown of placement at a mainstream secondary school. He was then placed in a residential special school, but unable to settle and remained largely in room, and was withdrawn after 6 weeks. Started a mixed state funded specialist media school for Years 10-13 (although chronologically in year 9, placed in Year 10). EHCP provides for a 1:1 TA. Although there was a positive start to term, recently unable to access lessons on a fulltime basis and has not attended school at all for the last two weeks</p>	<p>We conclude, particularly in the circumstances of this appeal, where the EHCP is already a very lengthy document, and the parties have now agreed that the necessary therapy provision should appear in Section F as educational provision, the health needs ought to be stated in Section C as a list without narrative. We recommend that Section C be amended to include only the list of agreed health conditions. We do not agree with the parental assertion that Section C should provide context to each health condition as this is contrary to the general purpose of the Section.</p> <p>We regard the alternative wording in the unresolved matters in Section G as semantic, rather than substantive. We do not consider it necessary to resolve such issues. We decline to recommend any alteration to the LA's proposed wording.</p>

			<p>Issues at the hearing Section B was entirely agreed. A few areas of disagreement in respect of section F by the conclusion of the hearing. These largely concerned where a particular sentence should appear within the document, or whether a particular paragraph should be divided into two separate paragraphs. The Tribunal declines to deal with such matters which are immaterial to the provision that will be made. The Tribunal limits its decision to matters of substance.</p> <p>Agreed that fulltime 1:1 support is provided but there is a dispute between the parties as to how the EHCP should record the duration of the support. The LA proposes that it to state, “<i>The 1:1 support will be reviewed annually to access [child’s] progress and to ensure he is able to work towards independence</i>”. Parents seek EHCP to record that the 1:1 support would continue until age 18, but following further discussions now propose that the wording to be “<i>The 1:1 support will be wholly funded by the LA for the life of this EHCP, without the need for the school to apply through the ENF process</i>”</p> <p>The Tribunal concludes that the following wording reflects the legal obligation of the LA and Orders this wording in place of the alternatives proposed by the parties:” The 1:1 support will continue for the duration of this EHCP”.</p>	<p>Parents wish Section D to include a sentence that reads “<i>Child has persistent mental health needs, which do not appear to be improving</i>”. In the context of the information within the health and education sections, we consider this sentence superfluous and do not recommend its inclusion.</p> <p>Parents wish the words in bold to be added to the following paragraph: “<i>The clinical psychologist from PALMS reported that child is leading an isolated life and has very little social interaction outside of the family. She also stated that parents are in urgent need of support and need some respite.</i>”</p> <p>Respite for parents may be desirable but goes beyond the scope of child’s social care needs. We decline to make recommendations in respect of these additions.</p> <p>Social care provision: parents wish the following provision: “<i>Child will be provided with a mentor for two hours per week to help him access leisurely pursuits and help improve his self-esteem and confidence.</i>”</p> <p>The LA wishes to provide a direct payment at an hourly rate for the mentor to be arranged directly by parents. We prefer the LA’s formulation of the provision.</p> <p>ORDER</p> <p>Sections B and Section F should be amended in accordance with the attached Appendix.</p> <p>RECOMENDATIONS</p> <p>Sections C, D, G and H should be amended in accordance with the attached Appendix.</p>
24.	NO	Section B, Section F Section I Section D Section H1/H2	<p>Background</p> <p>Six and a half-year-old with a diagnosis of Autistic Spectrum Disorder (“ASD”). Skills are significantly delayed in all areas of development, particularly in the areas of communication and learning to learn skills. Engages in behaviours that challenge and put self and others at risk of injury (and in fact has on a number of occasions bitten, scratched and pinched others). Recently started to become destructive of the fabric of family home and has started to lash out when frustrated. Sleeps badly and is often awake for long periods at night. Has been taking medication for insomnia for some years. Exhibits what is described as “pica” behaviour, putting inanimate objects and other things in mouth such as glue,</p>	<p>Progress had not been significant and ability to communicate had regressed between 2015 and 2018</p> <p>We concluded that ABA is required with a resulting programme, as proposed by his parents.</p> <p>The working document and our conclusions on the parts of it that were not agreed</p> <p>Section K</p> <p>All of the relevant reports need to be appended to EHC plan and referred to specifically in section K.</p> <p>Section B</p> <p>The words that should start section B are these: “[Child] a six and a half-year-old with a diagnosis of Autistic Spectrum Disorder. [Child’s] skills are significantly delayed in all areas of development, particularly in the areas of communication and learning</p>

		<p>dirt, and own faeces. Recently started smearing faeces on the walls of home.</p> <p>Two previous school placements ended because the setting could not meet complex needs: a special unit attached to a mainstream school for children with ASD. It followed an eclectic approach in the teaching of its pupils, applying elements of the SCERTS (Social Communication, Emotional Regulation and Transactional Support) model and TEACCH (Treatment and Education of Autistic and related Communication Handicapped Children) model. The second placement was an independent special school dedicated to meeting the needs of ASD children. It was inspected in the first half of 2018 by Ofsted and was graded an outstanding school. It also applied elements of SCERTS.</p> <p>LA's case in regard to the effectiveness of the two placements that it "disagrees that the SCERTS/TEACCH approaches have been ineffective".</p> <p>Not subsequently placed in a school because parents opposed to starting at another school and that placement breaking down.</p> <p>Issues for determination</p> <p>By the end of the hearing, the issues were "live" Whether [child] had in fact made any progress while he was a pupil at independent School. Whether [child] needs ABA as opposed to the LA's proposed model of provision. Class size?4 What occupational therapy ("OT") needs to be provided at school. Suitability of school of parental preference</p> <p>Costs of proposed placements</p> <p>Social care needs what provision is required to meet</p>	<p>to learn. Does not consistently use PECS or verbal language to get needs met and engages in behaviours that challenge and put self and others at risk of injury. Ongoing behavioural challenges both at night and during the day."</p> <p>"[Child] has made very slow progress in all areas over time."</p> <p>Section F</p> <p>"Also requires input from a wide range of professionals on a regular basis to address skill deficits across developmental areas. This should include input from Speech and Language Therapists, Occupational Therapists, and highly trained and experienced qualified teachers."</p> <p>"[child] needs small class sizes."</p> <p>"[child] needs daily opportunities to participate in activities using principles of ABA with a key adult."</p> <p>Section I</p> <p>We concluded for the reasons stated above that [child] should receive ABA and that he should do so at School. Therefore, the content of section I of EHC plan should be this:</p> <p>"[named} School, a non-maintained special school".</p> <p>Section D</p> <p>We concluded the following words should be in section D of EHC plan, and we therefore recommend their inclusion:</p> <p>"[Child] has a diagnosis of Autism Spectrum Disorder (ASD). presents with significant and severe communication difficulties and social interaction difficulties, significant attention and sensory difficulties and a history of motor mannerisms and repetitive behaviours. has difficulty sleeping. needs are complex and having a direct impact on the entirety of the family and its functioning. In the home setting, is constantly on the go. A very strong need for sensory input and behaviour is difficult to manage. [Child] frequently climbs onto the furniture, and in the garden moves between swinging, climbing and trampolining after a couple of minutes at each. Sometimes runs into the house, swings on the patio door, and runs out again. Requires constant supervision as shows limited awareness of danger or impulse control. Frequently pulls at his parents or attempts to bite them. Recently managed to open the front door and get out of the house.</p> <p>[Child] has significant sensory needs in the areas of movement (the vestibular system) and touch (the tactile and proprioceptive systems) and some auditory sensory processing difficulties. Has difficulty filtering information from the environment and can become overwhelmed by sensory stimulation and then can have difficulty calming down.</p>
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				ORDER 1. The appeal is allowed. 2. The education, health and care plan for child must be amended as described above. RECOMMENDATIONS It is recommended that sections D and H are amended as stated above.
25.	YP	PtA		
26.	NO	Section B Section F Section I Section D Section H1/H2	Background Autistic Spectrum Disorder (ASD). There were also concerns that child may have Dyspraxia and Dyslexia however, an assessment made on 2 October 2017 for Dyslexia did not find any associated needs at the time of the assessment. Currently on the pathway awaiting assessment for Attention Deficit Hyperactivity Disorder (ADHD). Accessed Speech and Language Therapy (SALT) from 2014 but has now been discharged from this service. However, there are still some concerns regarding his speech pronunciation. Often struggles making and maintaining friendships as does not understand turn taking and lacks empathy, which has led to child becoming isolated in school. A quiet child who prefers to play alongside others rather than with them. Extremely emotional and often does not understand social cues; because of this, needs support expressing self and supporting low self-esteem. Issues 1:1 support in before and after school clubs is requested by Parents and opposed by LA. The LA proposes that attendance at Fusions (CCC) provision, allowing him to socialise with children with similar problems who may be more understanding of his disability and to have supportive staff encouraging him to grow in his independence and confidence. The Parents wish to duplicate the needs set out in Section B into Section D. The LA does not agree to this proposal and has identified needs in Section B and for his social care needs they propose Fusions. The description of Special Educational Needs in Section B and the specification of the special educational provision required to meet those needs in Section F Whether there were other amendments indicated by the evidence before us which should be made to Section B and/or F	The appeal is dismissed. It is ordered that the LA amend the Education, Health and Care Plan of as follows: 1) In Section B, by replacing the existing wording in the EHC Plan with the LA's amendments set out in the attached final Working Document. 2) In Section F, by replacing the existing wording in the EHC Plan with the LA's amendments set out in the attached final Working Document. 3) In section F remove words ' <i>before and after school</i> ' Recommendation It is recommended that the LA amend the Education, Health and Care Plan as follows; 1) In Section D insert wording set out in bullet points on page 20 of the SB.

			<p>Health and Social Care Recommendations</p> <p>The parents requested the Tribunal make recommendations to amend Sections D and H1/H2 of the EHC Plan.</p> <p>At the start of the hearing it was identified that the outstanding issues to be considered in terms of Health and Social Care were 1:1 care at before and after school clubs.</p>	
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