

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

Appeal No. HS/3252/2015

Before Judge S M Lane

This decision is made under section 12(1) and (2)(a) and (b)(ii) of the Tribunals, Courts and Enforcement Act 2007.

The appeal by the appellant Local Authority is allowed.

The decision of the SEND tribunal heard on 10 September 2015 under reference EH860/15/00014 involves errors on points of law. The tribunal's decision is **SET ASIDE and RE-MADE** under section 12(2)(a) and (b)(ii) of the Tribunals, Courts and Enforcement Act 2007.

The EHC Plan shall be amended to exclude reference to H having a special educational needs or requiring special educational provision for transportation to and from the named educational institution. The EHC Plan shall be amended to exclude any reference to the an obligation of the Local Authority to arrange for the provision and cost of any transport that H may need to get to and from the named educational institution.

Anonymity I direct that there is to be no publication of any matter likely to lead members of the public directly or indirectly to identify any person who has been involved in the circumstances giving rise to this appeal, pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698).

REASONS FOR DECISION

1 The parties were informed of my decision by a notice dated 22 April 2016. I apologise for the delay in issuing these reasons.

2 The appellant Local Authority brings this appeal with the permission of the F-tT. I heard the matter at Bennett House, Stoke on Trent, on 8th February 2016. The Local Authority was represented by Mr James Goudie, QC. Their solicitor, Mr Darville, attended the hearing as did Mr Marsden of the Local Authority. The respondents, Mr and Mrs M ('the parents) attended the hearing but their daughter H, who is the subject of this appeal, was not present. Mr M represented the family. The parents' MP, Mr Jeremy Lefroy, attended the morning session of the hearing.

3 The issues before the Upper Tribunal are (i) whether the cost of transport to and from the place of education specified in an Education, Health and Care Plan ('EHCP') is either a special educational need or special educational provision for the purposes of the Children and Families Act 2014; (ii) whether a Local Authority has any duty under section 508F of the Education Act 1996 to pay transportation costs to facilitate attendance at further education of an adult learner over the age of 19 but under 25 years of age who has an EHC Plan; and (iii) whether the F-tT had any jurisdiction to order a Local Authority to pay for transportation costs which it had refused, as a matter of its discretion, to pay.

4 The errors made by the F-tT under ground (i) are immaterial if the F-tT had no jurisdiction to deal with the Local Authority's decision on transport costs

The background facts

5 H is now 21 years old and lives with her parents. The Local Authority maintains an EHC Plan for her, and only one institution is named in the EHC Plan. That institution is rather distant from H's home, and the transportation costs to and from home are at the heart of this appeal.

6 The Local Authority took the view that, because of H's age, they did not have an absolute duty to make and pay for H's travel to and from school. They only had to do so *if they considered it to be necessary* (section 508F, Education Act 1996 as amended by the Children and Families Act 2014). The Local Authority asked the parents repeatedly to provide the necessary information so that they could come to a conclusion on this issue, but Mr M was not cooperative. He considered their requests unnecessary and intrusive. In his view, the Local Authority either had the information already or could find it out themselves.

7 Over time, quite a lot of the information required had slowly come to light. It was also clear from a letter from the Local Authority to Mr M that he produced at the hearing that the Local Authority required very little further information. Mr M was adamant that he would not provide this information without my personal assurance that no more questions would be asked of him. That, of course, is not an assurance I could give.

The parents' case

8 H's parents believe that the Local Authority should be responsible for transport costs to and from the institution. They maintain that (i) H cannot take public transport to and from the institution; (ii) they cannot provide transportation for H reliably because of their own health problems; and (iii) if H is transported to and from the institution by third parties, such as a taxi service, she must be accompanied by a female attendant because of her peculiar vulnerabilities. H's needs were exceptional, they argued. They sought to rely on paragraph 9.215 of the SEN Code of Practice 2014 as requiring the Local Authority to arrange and pay for transport for a person in H's circumstances.

The Local Authority's case

9 The Local Authority's case to the F-tT was that the provision of transport for a young person in H's position depended on its transport policies. There was one for those of statutory school age, another for young people between 16 and 19, and a third for those between the ages of 19 and 25. For those in the last category, the requirement to provide transportation depended on whether, in their view, it was necessary to do so. This is a result of section 508F of the Education Act 1996. This is not exactly what the section says, as I discuss later, but at the Upper Tribunal the section was fleshed out properly.

10I mean no discourtesy to Mr Goudie's very detailed submissions on the law by paring them down as follows. Nor do I mean any discourtesy to Mr and Mrs M by giving only the essentials of their daughter's problems which do not help me with the points of law I have to decide.

The F-tT's decision

11It should be said that the F-tT went to great lengths to try to end the stalemate between the parties. It recognised that the EHC Plan was still only in draft form. Given that finding, it is not clear that there was anything capable of being appealed under section 51(2)(c) of the CFA 2014, since section 51(3) only allows an appeal under that subparagraph when an EHC Plan is finalised, or following an amendment or replacement:

51(1) A child's parent or a young person may appeal to the First-tier Tribunal against the matters set out in subsection (2), subject to section 55 (mediation).

(2) The matters are -

...

- (a) A decision of the local authority not to secure an EHC needs assessment for the child or young person;
- (b) a decision of a local authority, following an EHC needs assessment, that it is not necessary for special educational provision to be made for the child or young person in accordance with an EHC Plan.
- (c) Where an EHC Plan is maintained for the child or young person –
 - (i) the ...special educational needs as specified in the plan;
 - (ii) the special educational provision specified in the plan;
 - (iii) the school...named in the plan, or type of school or other institution specified in the plan;
 - (iv) if no school...is named in the plan, that fact.
- (d) a decision of a local authority not to secure a re-assessment of the needs of the child or young person under section 44 following a request to so;
- (e) a decision of a local authority not to secure the amendment or replacement of an EHC plan it maintains for the child or young person following a review or re-assessment under section 44.
- (f) a decision of a local authority under section 45 to cease to maintain an EHC Plan for the child or young person.

(3) A child's parent or a young person may appeal to the First-tier Tribunal under subsection (2)(c) –

- (a) When an EHC Plan is finalised for the child or young person, and
- (b) Following an amendment or replacement of the plan.

(4) – (7) not relevant to issues.

12This particular jurisdictional point was not expanded before me and I leave it aside.

13The F-tT accepted that the Local Authority was entitled to have a policy for post-19 year old pupils and that they were entitled to ask for information [31]. It took the view, however, the building H's independence required a carefully graded programme at the college, that provision of transportation provision of that

programme required provision of transportation to access it, and that this amounted to a form of provision for H's special educational needs. The F-tT also found that H's needs were exceptional and that it was accordingly a special educational need. It seems, therefore, that the F-tT considered it both a special educational needs *and* special educational provision. By taking this approach, the F-tT thought, perhaps, that it would outflank section 508. This was a bold solution in light of authorities that establish that home to school transport is neither special educational needs nor special educational provision.

14The Local Authority was given permission to appeal against this decision by the F-tT, which also stayed the order requiring the Local Authority to provide transport.

15 Issue 1: Is transport to and from the place of education specified in an Education, Health and Care Plan ('EHCP') for an adult learner with special educational needs either a special educational need or special educational provision?

The statutory context

16The Children and Families Act 2014 (CFA 2014) requires Local Authorities to make special educational provision for children and young people with special educational needs [or disabilities]. I shall refer to these as special educational needs for convenience. Provision is now made through an EHC Plan instead of a Statement of Special Educational Needs, though it will be some time before all Statements of Special Educational Needs are replaced by EHC Plans.

17The CFA 2014 defines a young person as a person over compulsory school age (16 and over to 25 (section 83)). The 16 to 25 age range is subdivided for various purposes. Young persons who are over compulsory school age but under the age of 19 are treated differently from those in the post-19 group. For the latter, a Local Authority's duty to provide education or training is limited to those for whom an EHC Plan is maintained: section 15ZA, Education Act 1996. The post-19 group is, as we shall see, also treated differently in respect of transportation to and from their institution or place of education ('home to school transport', for ease of reference).

15ZA

- (1) A [local authority] in England must secure that enough suitable education and training is provided to meet the reasonable needs of—
 - (a) persons in their area who are over compulsory school age but under 19, and
 - (b) persons in their area who are aged 19 or over [and for whom an EHC plan is maintained].
- (2) A [local authority] may comply with subsection (1) by securing the provision of education or training outside as well as within their area.
- (3) In deciding for the purposes of subsection (1) whether education or training is suitable to meet persons' reasonable needs, a [local authority] must (in particular) have regard to—

- (a) the persons' ages, abilities and aptitudes;
- (b) any learning difficulties [or disabilities] the persons may have;
- (c) the quality of the education or training;
- (d) the locations and times at which the education or training is provided.

(4) In performing the duty imposed by subsection (1) a [local authority] must—

- (a) act with a view to encouraging diversity in the education and training available to persons;
- (b) act with a view to increasing opportunities for persons to exercise choice;
- (c) act with a view to enabling persons to whom Part 1 of the Education and Skills Act 2008 applies to fulfil the duty imposed by section 2 of that Act;
- (d) take account of education and training whose provision the authority think might reasonably be secured by other persons.

(5) not relevant

(6) For the purposes of this section a person has a learning difficulty [or disability] if—

- (a) the person has a significantly greater difficulty in learning than the majority of persons of the same age, or
- (b) the person has a disability which either prevents or hinders the person from making use of facilities of a kind generally provided by institutions providing education or training for persons who are over compulsory school age.

18. The Education Act 1996 as amended by the CFA 2014 contains the bulk of law applicable to educational matters relating to those with special educational needs and disabilities. In order to retain consistency between the system for EHC Plans in Part 3 of the CFA 2014 and the very much more detailed law relating to education in the Education Act 1996, section 83(7) of the CFA 2014 requires the Education Act 1996 and Part 3 of the Children and Families Act 2014 to be read as if Part 3 were contained in the Education Act 1996.

19. Although section 83(7) is obscurely drafted, in my view it is intended to coordinate the two systems, at least in their core concepts. That is certainly so regarding the terms 'special educational needs' and 'special educational provision'. Those terms and their meanings were largely lifted from the Education Act 1996 into the CFA 2014 subject, obviously, to appropriate changes to reflect (for example) the new age-range of persons for whom education is to be provided.

20. Under the Children and Families Act 2014, special educational needs has the meaning in section 20(1) and special educational provision has the meaning set out in section 21(1) [section 83]. As relevant, these provisions state:

20 When a child or young person¹ has special educational needs

¹ Section 83 defines a young person as a person over compulsory school age but under 25.

- (a) A child or young person has special educational needs if he or she has a learning difficulty or disability which calls for special educational provision to be made for him or her.
- (b) A child of compulsory school age or a young person has a learning difficulty or disability if he or she—
 - (a) has a significantly greater difficulty in learning than the majority of others of the same age, or
 - (b) has a disability which prevents or hinders him or her from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions.

21. Special educational provision, health care provision and social care provision

- (a) “Special educational provision”, for a child aged two or more or a young person, means educational or training provision that is additional to, or different from, that made generally for others of the same age in—
 - (a) mainstream schools in England,
 - (b) maintained nursery schools in England,
 - (c) mainstream post-16 institutions in England, or
 - (d) places in England at which relevant early years education is provided.

b. not relevant

21 Sections 21(3) – (5) then go on to increase the scope of matters that are to be contained in an EHC Plan to include (where relevant) health care provision and social care provision. It remains the case, however, that a Tribunal will only have jurisdiction to deal with educational needs: section 21(3) – (6).

c.

22. The definitions for special educational needs and special educational provision under section 312 of the Education Act 1996 (both before and after amendment) are the same in core respects:

312 Meaning of “special educational needs” and “special educational provision” etc.

- (1) A child has “special educational needs” for the purposes of this Act if he has a learning difficulty which calls for special educational provision to be made for him.
- (2) Subject to subsection (3) and 3A a child has a “learning difficulty” for the purposes of this Act if—
 - (a) he has a significantly greater difficulty in learning than the majority of children of his age,
 - (b) he has a disability which either prevents or hinders him from making use of educational facilities of a kind generally provided for children of his age in schools within the area of the local education authority, or
 - (c) he is under [compulsory school age] and is, or would be if special educational provision were not made for him, likely to fall within paragraph (a) or (b) when of that age.

- (3) A child is not to be taken as having a learning difficulty solely because the language (or form of the language) in which he is, or will be, taught is different from a language (or form of a language) which has at any time been spoken in his home.
- (3A) not relevant
- (4) In this Act “special educational provision” means—
- (a) in relation to a child who has attained the age of two, educational provision which is additional to, or otherwise different from, the educational provision made generally for children of his age in schools maintained by the local education authority (other than special schools), and
 - (b) in relation to a child under that age, educational provision of any kind.²

23. It is clear from the wording of these provisions that a special educational need must *arise* from a learning difficulty. It is also clear that the learning difficulty must call for special educational provision.

24. On this language, it cannot be sensibly argued that a need for home to school transport arises from a ‘learning difficulty’ in and of itself. Nor, on the wording, can home to school transport be classed as a form of special educational provision. As recognised in case law examining the structure and language of the Education Act 1996, special educational provision is distinct from the transport needed to access that provision. So, for example, in *R v London Borough of Havering ex parte K* [1998] ELR 402 at 404-405, a case in which a parent wished the Local Authority to take on responsibility for transporting her child at the beginning and end of each to the school at which he was a boarder, Sedley J said:

‘The duty of the local authority to make such provision can be found (in principle, at any rate) in two places in the Education Act 1996. One is at ... s 324(5)(a)(ii)³ – transport being clearly one form of non-educational provision. The other, however, is the more explicit provision in section 509. Section 509(1) reads:

‘A local education authority shall make such arrangements for the provision of transport and otherwise as they consider necessary o...for the purpose of facilitating the attendance receiving education –
(a) at schools

Although the *Havering* case involved different section 509, the principle is the same as in the instant case. That principle was expressly approved by a Three Judge Panel of the Upper Tribunal in *Dudley MBC v JS* [2011] UKUT 67 [32]. *Dudley MBC v Shurvinton* was itself upheld in the Court of Appeal [2012] EWCA Civ 346). In *MM & DM v London Borough of Harrow* [2010] UKUT 395 (AAC), one of the arguments raised by the parents was whether the school named by the Tribunal was unsuitable

² Section 312(5) should be adapted to show the changes in ‘child’ and ‘young person’ made by the Children and Families Act 2014.

³ This section draws a distinction between special educational provision and non-educational provision.

for their daughter because the travel arrangements made by the Local Authority were not, in the parents' view, suitable. In dismissing this ground, Upper Tribunal Judge Jacobs said at [27]:

'Transport is not an educational need. However, it has to be taken into account. A placement cannot be appropriate if the authority cannot provide suitable transport to the school.'

And at [29]:

'However, the journey is not part of the children's education. It does not have to provide an opportunity to meet social or educational needs. It is merely a means of getting the children from their homes to their school.'

25. This is not to say to say that issues about transportation are irrelevant. It depends on the context. In cases in which the *choice* of school is in issue in respect of a child, the cost of transportation is a matter which may be taken into account in deciding whether the parental choice or Local Authority choice of school is to prevail. In this appeal, even if H was still a child for the purposes of the Education Act 1996 (which she is not), the issue was not the choice of school.

26. Section 15ZA of the Education Act 1996 as amended reinforces the analysis in the case law. The duty is described in terms of 'education' and 'training'. Other matters, such as the location and times at which the education or training is provided, go to the suitability of the education to meet the individual's needs, and not to the meaning of education or training themselves.

27. My conclusion is that there is nothing in the wording of the sections cited above which suggests that Parliament intended to change our understanding of these core terms. It follows that I accept the Local Authority's submission that the F-TT erred in law by finding that transportation to and from school was either a special educational needs or special educational provision to meet such a need.

28. Issue (ii) Does a Local Authority have any duty under section 508F of the Education Act 1996 to pay transportation costs which would enable a young person over the age of 19 with an EHC Plan to access the education specified in the plan?

29. Mr Goudie's straightforward submission is that the Education Act 1996 does not impose a duty on the Local Authority to pay for transport for a person in H's situation even though the Local Authority maintain an EHC Plan for her. He argues that the question of whether a Local Authority is required to pay for a person's transport is governed by sections 508B to 508F of the Education Act 1996. These apply both to Statements of Special Educational Needs and EHC Plans.

30. There are two main strands to Mr Goudie's argument.

31. The first is that the CFA 2014 only grants a right of appeal against particular aspects of Local Authority decisions. These are the special educational needs in the

plan, the special educational provision in the plan, the school/type of school/institution specified in the plan or, if no school is named, that fact. Since home to school transport is not a special educational need, not special educational provision, not the naming of a school and not a failure to name one, it carries no right of appeal to a Tribunal. A person adversely affected by a decision concerning the provision of transport would have to seek a remedy by way of judicial review.

32. Mr Goudie reinforced his argument by reference to the powers granted to the Tribunal in section 43 of the Special Educational Needs and Disability Regulations 2014.

43.—

(1) Before determining any appeal, the First-tier Tribunal may, with the agreement of the parties, correct any deficiencies in the EHC Plan which relate to the special educational needs or special educational provision for the child or the young person.

(2) When determining an appeal the powers of the First-tier Tribunal include the power to—

(a) dismiss the appeal;

(b) order the local authority to arrange an assessment of the child or young person under section 36 or a reassessment under section 44(2) where the local authority has refused to do so, where the appeal made under section 51(2)(a) or (d);

(c) order the local authority to make and maintain an EHC Plan where the local authority has refused to do so, where the appeal is made under section 51(2)(b);

(d) refer the case back to the local authority for them to reconsider whether, having regard to any observations made by the First-tier Tribunal, it is necessary for the local authority to determine the special educational provision for the child or young person, where the appeal is made under section 51(2)(b);

(e) order the local authority to continue to maintain the EHC Plan in its existing form where the local authority has refused to do so, where the appeal is made under section 51(2)(c), (e) or (f);

(f) order the local authority to continue to maintain the EHC Plan with amendments where the appeal is made under section 51(2)(c) or (e) so far as that relates to either the assessment of special educational needs or the special educational provision and make any other consequential amendments as the First-tier Tribunal thinks fit;

(g) order the local authority to substitute in the EHC Plan the school or other institution or the type of school or other institution specified in the EHC plan, where the appeal concerns, the specific school or other institution, or the type of school or other institution named in the EHC Plan, where the appeal is made under section 51(2)(c)(iii) or (iv);

(h) where appropriate, when making an order in accordance with paragraph (g) this may include naming—

- (i) a special school or institution approved under section 41 where a mainstream school or mainstream post-16 institution is specified in the EHC Plan; or
- (ii) a mainstream school or mainstream post-16 institution where a special school or institution approved under section 41 is specified in the EHC Plan.

33. It is plain that these powers do not permit the Tribunal to deal with transportation in the manner in which the F-tT purported to do so.

34. The second, critical strand of argument is based on section 508F (italics added).

508F [Local authorities] in England: provision of transport etc for adult learners

- (1)A [local authority] in England *must* make such arrangements for the provision of transport and otherwise *as they consider necessary*, or as the Secretary of State may direct⁴, for the purposes mentioned in subsections (2) and (3).
 - (2)The first purpose is *to facilitate the attendance* of adults receiving education at institutions—
 - (a) maintained or assisted by the authority and providing further or higher education (or both), or
 - (b) within the further education sector.
 - (3)The second purpose is to facilitate the attendance of relevant young adults receiving education or training at institutions *outside both the further and higher education sectors*, but *only* in cases where the [local authority] have secured for the adults in question—
 - (a) the provision of education or training at the institution in question, *and*
 - (b) the provision of boarding accommodation under section 514A.
 - (4) Any transport provided under subsection (1) must be provided free of charge.
 - (5) In considering what arrangements it is necessary to make under subsection (1) in relation to *relevant young adults*, a [local authority] must have regard to what they are required to do under section 15ZA(1) in relation to those persons.
 - (6) *In considering whether they are required by subsection (1) to make arrangements in relation to a particular adult, a [local authority] must have regard (among other things) to the age of the adult and the nature of the route, or alternative routes, which the adult could reasonably be expected to take.*
 - (7) not relevant
- 8 A [local authority] in England may pay all or part of the reasonable travelling expenses of an adult—

⁴ The Secretary of State has not given relevant directions.

- (a) receiving education or training at an institution mentioned in subsection (2) or (3), and
- (b) for whose transport no arrangements are made under subsection (1).

9. In this section—

“adult” means a person who is neither a child nor a person of sixth form age, “sixth form age” is to be construed in accordance with section 509AC(1), and “relevant young adult” means an adult [for whom an EHC plan is maintained]

35 As H is over 19 years old, has an EHC Plan and would attend a qualifying institution, the flow of section 508 is this:

- The Local Authority must make arrangements for transportation if they consider it necessary [subsection (1)] and H falls within one of the purposes.
- H falls within purpose 1 [subsection (2)]
- In considering whether they must make arrangements for H, they must have regard, among other things, to the factors in subsection (6).
- If, in they decide that it is necessary to make arrangements, the transport must be free [subsection (4)]
- Even if they do not consider it necessary, the Local Authority has a residual discretion to pay some or all of the reasonable costs of transport if no other arrangement has been arranged [subsection (8)]

The nature of the duty set out in section 508F

36 The Local Authority has a duty to make arrangements for H *if* they consider that to be necessary having regard to all of the relevant circumstances. This is not a pure discretion. Although the question of what is necessary is a matter for them, in deciding that question they must exercise their judgment judiciously and in good faith. If they come to the conclusion that it is necessary, they must make the necessary arrangements and the transportation must be free of charge.

37 At the hearing, Mr Goudie distinguished the duty of the Local Authority under section 508F from the more extensive duty owed to an eligible child under Schedule 35 of the Education Act 1996. He was, in my view, right to do so. A Local Authority has a duty to secure home to school transportation for certain ‘eligible’ children (i.e. those who are not over compulsory school age, section 579) under Schedule 35 of the Education Act 1996. The content of the duty varies from paragraph to paragraph of the Schedule, but as a very broad generalisation, as regards children with special educational needs, disabilities and mobility problems the Local Authority must make available to them free transportation if (i) they cannot reasonably be expected to walk to the school at which they are registered and (ii) there are no suitable arrangements

to register them at a school nearer to their home.⁵ There is no correlative provision for those in the post-19 year old group.

38 In connection with the duty under section 508F, I was also referred to the Code of Practice issued by the Secretary of State under the CFA 2014. The parents sought to rely on the paragraphs relating to transport in the Code to support their case that the Local Authority was obliged to provide transport for H because her circumstances were exceptional.

39 The relevant paragraphs of the Code say this:

‘9.214 The parents’ or young person’s preferred school or college might be further away from their home than the nearest school or college that can meet the child or young person’s SEN. In such a case, the local authority can name the nearer school or college if it considers it to be appropriate for meeting the child or young person’s SEN. If the parents prefer the school or college that is further away, the local authority may agree to this but is able to ask the parents to provide some or all of the transport funding.

9.215 Transport should be recorded in the EHC Plan only in exceptional cases where the child has particular transport needs. Local authorities must have clear general arrangements and policies relating to transport for children and young people with SEN or disabilities that **must** be made available to parents and young people and these should be included in the Local Offer. Such policies must set out the transport arrangements which are over and above those required by section 508B of the Education Act 1996.

9.216 (not relevant)

9.217 Transport costs may be provided as part of a Personal Budget where one is agreed and included in the EHC Plan as part of the special educational provision.’

40 There are problems with these paragraphs, the first two of which reproduce paragraphs in the old SEN Code of Practice. One problem is that 9.214 and 9.215 try to summarise a number of very different situations in as few words as possible thereby creating inaccuracy and confusion. Paragraph 9.214, for example, does not deal with situations under Schedule 35 in which the Local Authority cannot ask parents to pay for home to school transportation for an eligible child to their school of the parents’ choice even though it is further away than one identified by the Local Authority⁶. Paragraph 9.215, on the other hand, may be wrongly interpreted (as it was in this appeal) to lay down a free-standing rule allowing transport needs to be included in an EHC Plan if exceptional circumstances could be shown to exist, despite section 508F. A Tribunal must apply the law. If a Tribunal finds guidance in the Code which flies in the face of legislative provisions, its duty is to apply the law as laid down by Parliament.

41 Concluding on this point, the F-tT was in error of law by deciding that it could bypass section 508 by relying on paragraph 9.215 of the Code. It also erred in law in taking jurisdiction over transport where none existed.

⁵ See *Dudley MBC v Shurvinton* [2012] EWCA 346.

⁶ *Dudley v Shurvinton*, *supra*.

Disposition of the appeal

42. There is no need to remit this appeal to a F-tT. All that is required is to eliminate from the EHC Plan any words dealing with responsibility for, and payment by the Local Authority or H's home to school transportation.

[Signed on original]

[Date]

**S M Lane
Judge of the Upper Tribunal
23 May 2016**