

P-05-832 To Amend the School Admissions Code Relating to Summer-Born Children, Correspondence – Petitioner to Chair, 13.03.19

**Response to Petitions Committee (P-05-832)
Flexible School Admissions Wales Group**

SUMMARY OF RESPONSE:

- The School Admissions Code forces parents of summer-born children to choose between keeping their child out of formal schooling until age 5 (a legal right) or have the child miss the most important year of education.
- Section 3.30 of the Code is aimed at children already in formal education who may have to be held back a year, rather than the initial admission of children into reception. This is clearly reflected in local authorities' policies - the majority have no specific policy regarding the deferral of starting school, so instead apply policies for holding pupils back a year. This is wholly inappropriate.
- Given this, local authority policies show divergence in the way that the Code is implemented, creating a 'postcode lottery' at best, and a disregard of children's rights and parental wishes at worst. This is reflected in parents' experiences (blue).
- The Code is incompatible with the Education Act 1996, in the context of the admission of summer-born children.
- The Code is explicit that there is no statutory right of appeal where admission has not been offered in the desired year group. Thus, if parents believe that the decision has not been made in the best interests of the child, there is no statutory right of redress.

1. Context

The law does not require a child to start school until the term following a child's 5th birthday, and given this, it is the parent's right to keep their child out of formal education until that time. The question that should therefore be considered by local authorities in respect of children turning 5 in the summer, is whether it is in the *best interests of the child* to start their education in reception or in year 1.

It would be difficult to argue that missing reception would be in the best interests of the child. Research has clearly identified the reception year as the most important school year and without firm foundations in areas taught in reception, a child's life chances can be severely restricted (Ofsted, 2017). However, parents of summer-born children, some of whom may have not reached social, emotional or academic maturity and readiness for school at age 4, are effectively forced to enrol their child an entire year earlier, or otherwise have their child's education entitlement reduced by one year, also missing the pivotal reception year.

Section 9 of the Education Act 1996 states that pupils are to be *educated in accordance with the wishes of the parents*, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure. Given that there should be no incompatibility with efficient instruction nor should there be *unreasonable* associated expenditure, the Welsh School Admissions Code does not respect this principle.

What is more, Section 3.30 of the Admissions Code largely refers to holding children back a year, rather than the deferral of entry into formal education; this is reflected in local authorities' policies. It is inappropriate to apply this provision of the Code and these policies to children entering education for the

first time, as the two issues will have very different considerations (see further **2.6 Gwynedd**). This has created an uncertain, inconsistent patchwork of policies across Wales, forcing some parents to turn to schools in England to secure education that is in the best interests of their child.

2. Local Authority Policies

We are grateful to Mr Rowlands AM and the Committee for contacting the local authorities. It is unfortunate that a number of local authorities opted not to respond to this request, particularly given that parents have reported recent, ongoing concerns, e.g.:

- A parent in Ceredigion reports that they have been given a ‘blanket no’, despite no discussion with the parents, school, or educational psychologist. The parent is awaiting a response to further inquiries after being told an ‘adequate’ education can be provided for the child. Under Article 29 of the UN CRC 1989, a child has the right to an education that develops their abilities to their fullest potential.
- A parent in Powys, having recently received a no (based upon the advice of professionals who had never met their child), is now seeking a school place for their child across the border in England. The English schools and authorities have been extremely helpful in discussing a deferred entry to reception. This child will now miss out on an education in Wales and in the Welsh language.
- In Caerphilly [1], a parent has recently received a ‘blanket no’. They have been waiting over 2 months for a response, while the authority is “waiting for further clarification from Welsh Government on the matter.”

Many parents also feel that the statistics provided will not be indicative of the real number of parents wanting flexible school admissions. Many parents report that they are told this is not an option or discouraged before formally applying for deferral, e.g.:

- A parent in Anglesey has recently been told by different people, (a) that such a thing does not exist, or (b) they would have to find out about it and let the parent know. The parent is still awaiting a reply since early January 2019.
- In Caerphilly [2], a headteacher was told by admissions that the authority would not allow a deferred entry into reception year. Worried of losing support for their child with ALN, the parent concerned did not formally apply for deferral. The child is now in *year 1*, has had extensive support, and is on par with children in the *reception* class. Much of the support would not have been required had a deferred start been possible.
 - Additionally, Caerphilly communicated that the parent would cause the child harm by forcing them to miss the reception year (had they waited to enrol until age 5). If authorities are aware that missing the year is detrimental, they are not considering the *best interests of the child* when deciding whether to admit summer-born children into reception or year 1.

In any case, the policies clearly evidence that change in in the Admissions Code is needed, and confirm:

- a) Divergence across Wales in how the Code is interpreted and implemented; uncertainty as to what will be considered sufficient by authorities in approving a deferred start.
- b) The Code provides for students already in education being held back a year, or moved up a year. Section 3.30 is not designed for the admission of children into reception year. The majority of authorities have no specific policy regarding deferral of starting school, so apply policies for holding pupils back a year.

Below is an overview of the local authorities’ responses; parental experience is highlighted in blue:

2.1 Anglesey

- Policy does not refer specifically to applications to delay admissions.

- Anglesey states that one application was made to delay school admission and that this was granted: the child attends reception year part-time with peers. However, this is not an example of a successful application to defer admission until the next year.

2.2 Bridgend

- No specific provisions in the admissions policy for summer-born children.
- Circumstances where a school place will need to be considered outside of a child's normal age range may include where a child has experienced problems or missed part of a year due to ill health. This evidently does not apply to the admission of children into formal schooling for the first time.

2.3 Cardiff

- No specific policy for summer-born children.
- The parent must evidence why the child should be placed outside of their chronological age and can submit written reports from medical, psychological or social worker professionals. Recommendations are made by authority representatives and sent to the Director of Education for approval.
- In Cardiff, one parent was forced to turn to legal counsel after the request for deferral was refused. The child is late summer-born and also has a medical issue. The parent was forced to place the child in an independent, private school at personal cost.
- Another parent has also had to turn to an independent school after refusal of the request, despite the child having significant delays, difficulties and health issues.

2.4 Carmarthen

- No specific policy regarding deferral of starting school, but do have definitive policies on holding pupils back a year.
- The single request to delay starting school entry, which the local authority considered an exceptional case based on premature birth, was successful.

2.5 Denbighshire

- Does not have a specific element within the admissions arrangements covering this area, and identifies that the Admissions Code does not cover summer-born children.
- Highlights that the authority 'should (not must)' consider these requests carefully.
- Operates a blanket policy: the authority will admit to the correct year and have advised schools that they should follow this same approach.
- Circumstances where schools have decided to teach outside the year group are 'very limited', and the authority does not have a mechanism for recording such requests.

2.6 Gwynedd

- Schools are advised that children should be taught, as a rule, within their chronological year group.
- The guidelines apply to pupils 'kept back for a year or more'.
- The guidelines refer to long-term detrimental effects for out of cohort pupils, however, the research upon which the policy relies upon relates to 'holding back' children or grade retention (keeping a child in the same school year for more than a year). This is not the same as summer-born children deferring a school start, where there is ample evidence that children benefit from more time to develop before their formal education begins in earnest (Whitebread, 2012; Layton,

2018) and that starting school too young can be harmful to children's mental health (Price et al, 2017). Applying this policy on held-back children to summer-born children is inappropriate.

2.7 Merthyr

- Parents have the right to defer their child's entry to school until the term following their fifth birthday - this is an existing legal right.

2.8 Monmouthshire

- Where a parent opts not to enrol their summer-born child in formal schooling until they are 5, the child would be admitted into year 1 and not reception.
- The local authority will only permit deferral in exceptional circumstances where there is a suitable evidence base (e.g. educational psychologist report).
- No requests to defer entry have been approved and the authority suggests that some requests are due to parents not getting a place at a preferred school.
- One child opted to attend a school in England where their request was granted. This child is now missing out on a Welsh medium education.

2.9 Newport

- Summer-born children entering school at 5 years old will be admitted into year 1.
- All requests for deferral in the past 3 years were refused.

2.10 Rhondda Cynon Taf

- No specific policy for deferring entry into school.
- Requires a multi-agency meeting involving the family and relevant professionals, approval will be given if there are strong grounds.

2.11 Swansea

- No separate policy for summer-born children.
- To be successful, evidence must be shown of significant delay and little progress.

2.12 Torfaen

- The authority states it does not operate a one size fits all policy, and would consider each case on its merit.
- Suggests that the Admissions Code states that it is not normally appropriate for [summer-born] children to be admitted to a non-cohort age group, however it is submitted that the provision in the Code applies to holding children back (or moving up) a year.

2.13 Wrexham

- Policy refers to deferred entry within the same school year, rather than deferred admission to reception year.