

## CYPE(5)-20-18 – Paper to note 7

Dear Committee Members,

following a telephone conversation with the Clerk to your Committee, I welcome the opportunity to write to you, on behalf of the Flexible Admissions Group, Wales. Within this letter, I hope to outline the issues and complexities around Wales's current Admissions policy. I have also attached a Snapshot of case studies section, which will, I feel, help to add context to the problems encountered by parents who seek a more flexible, transparent and fair admissions policy for their child.

Currently in Wales, the age at which a child should legally be in formal education is the term after their fifth birthday. Overwhelmingly, children start their formal education journey at the age of four, in Reception. Reception is a crucial part of the child's early years experience, allowing for a gentle transition, sometimes from home, often from a nursery setting, where the basics of literacy; phonics, reading, writing, numeracy; numbering, counting, rules, new routines and socialising take place. This has been argued to be the most important school year of all by Ofsted's Bold Beginnings Report. If children enjoy this important transition into their formal education journey, given the opportunity to thrive, feel supported and acquire a 'zest for learning', this sets them on a positive journey for the years to follow, conversely, if this is not the case, children can often disengage with the learning process and the negative seeds are sown and can have long-term impacts.

Taking into account the above outline, this is where the problem arises for many members of our Facebook support group and in the wider community. Some children experience problems in their early childhood; a time where development is so variable. It is said that child development occurs at different rates, in the early years of life, levelling out at around the age of six or seven. When parents are faced with the need to apply for a full-time Reception place for their child, many needing to do so for children who are still only three years of age and some, who, for various reasons, are not ready for such a transition, where a delay would allow the child's problem/s to improve or even be solved, as he /she matures in all facets of development: physical, cognitive, emotional, developmental health issues. Such issues could be as a result of early years environmental problems, physical delays, premature birth, summer-born, especially later summer-born children. To not take these issues into account, where parents / health care professionals believe a delay would be in the child's best interests is, we believe, doing such young children a disservice and indeed, damaging.

The current Welsh Government School Admissions Policy Statutory Code (2013) states that:

***3.30 Although most children will be admitted to a school with their own chronological age group, from time to time parents seek places outside their normal age group for gifted and talented children, or those who have experienced problems or missed part of a year, often due to ill health. While it would not normally be appropriate for a child to be placed in a year group that is not concurrent with their chronological age, admission authorities should consider these requests carefully and make decisions on the basis of the circumstances of each case and in consultation***

***with the parents and the school, and specifically in relation to what is most beneficial to the child. Due regard should be given to the Educational Psychologist's report, where available, and clear reasons ascertainable for such a decision to be made.***

For the vast majority of parents who are faced with the likelihood that it would be in the best interests of their child to start formal schooling at Compulsory School Age (CSA), as outlined earlier in this letter, they do their due diligence and discover the above policies currently stand, showing there is the possibility to delay, they decide to exercise their right, only to face a system that can only be described as dismissive, suspicious, inconsistent, open to interpretation and mostly, closed to the idea. They are usually informed that as CSA is five in Wales, they cannot stop a parent from delaying, but crucially, the child will have to start their school journey in Year 1, being forced to miss out on the vital Reception experience, therefore, penalising parents / children for taking this decision. This often serves to influence a parent's decision, resulting in them reluctantly withdrawing their 'Out of Cohort' application / interest. The information available to the group indicates only three occasions, where the decision to allow a child to start Reception at CSA has been granted; one was done so after a lengthy battle with the local authority, the other two, fairly seamlessly, accepting medical advice and the legal argument, presented by an education-specialist lawyer. The problems, as we see them:

- Wording of the Welsh Government's Admissions Code, noted by the esteemed Education Specialist Lawyer, Michael Imperato – the word 'Should' is problematic, as it is open to the dismissiveness, often experienced by parents. The word "Must" would place an unequivocal responsibility upon the local authorities in Wales to carry out their responsibilities, as outlined in the 3.30 policy (above) and the UNCRC (detailed below).
- Local authorities in Wales consider such applications according to their 'out of cohort' policy, many of which are more relevant to applications made later in a child's school journey and have no place within the context of whether a child should be allowed to start their journey in Reception at CSA.
- Despite being required to consider each application for an out of cohort application on individual merit and in the best interests of the child, it is clear, from the experiences of our parents, that a blanket policy is being applied by the various local authorities around Wales.
- The experience of our group indicates that many LAs are immediately dismissive of a Reception start at CSA, treating parents with disdain and often, insulting the intelligence of such parents, with the information / misinformation they give. There appears to be no regard for the views of the parents of these young children, leaving them feeling judged, as if they are trying to 'hold on' to their child for as long as possible, This approach is also found in many of the schools approached by our parents, most are unaware that a delay to CSA is the legal right of a parent and refuse to allow this and often, part-time attendance is totally frowned upon, despite it being a legal right, before the child reaches CSA.
- Parents who have secured an 'Out of Cohort' place in the early years, be this through LEA agreement, Voluntary Aided or Independent Schools, fear their child being forced to join their so-called 'natural cohort', either with a change of head teacher within the school, or in the transition from primary to secondary school, such is the current policy, or lack, thereof. This causes real concern for several parents in the group.
- Whilst the Early Years Foundation Phase curriculum has been in place fully, since 2008, with an emphasis around experiential learning through play, the evidence from Estyn's recent inspection was that only 25% of schools are applying it correctly. This is also the feedback we receive from parents

in our group and beyond, from teachers practicing within Wales, who state that the pressures of formal learning, in preparation for the Year Two National Assessment are evident from Reception onwards, placing our very young children under pressure, from the outset. In a conference examining Educational Difference – Flexing and Personalising Education, (04/11/17) in Colwyn Bay), key note speaker, Sue Palmer, author of Toxic Childhood and Upstart Scotland, esteemed in the field of early years learning, described Wales' Early Years Foundation Phase in Wales as a "total contradiction". It is a well-known fact that most summer-born children struggle to apply themselves, at this early stage, to formal learning and often disengage, due to the difficulties they experience, in terms of concentration, inability to sit still and just the developmental difficulties in reading, often struggling with a lack of fine motor skills and ability to coordinate the cognitive and fine motor skills to do meaningful writing. The lack of meaningful movement on a daily basis, combined with the facts mentioned above, often result in poor behaviour and diagnoses of such conditions as ADHD, where in fact these children are just simply frustrated, too young to engage in the formal aspects of learning and all that this requires of them.

The burning question in Wales, therefore: what is the point of a policy, which on the one hand, states that compulsory school age is 5, but when parents feel their child would benefit from this, often, for genuine reasons, and enquire or apply to decelerate, they are faced with an almighty battle, on occasion, requiring legal counsel, to simply secure a place in Reception? How can it ever be in the child's best interests to be forced straight into Year One at CSA, being forced to miss, what has been described by Ofsted in its Recent Bold Beginnings Report, as the "most important year of all", and should be staffed by the "best teachers"? Such a move means the child is at a disadvantage, in all aspects, from day one. Many of the requests made for a delay by members of our group have not been made solely for summer-born reasons, most are as a result of developmental delays /issues, which have been flippantly rejected, with a standard line "he / she will be fine", rejecting the opinions of respective specialists and a failure in their duty to provide full and detailed reasoning for the decision. This is unacceptable and certainly not in the best interests of the children.

We implore you to look at the Admissions Code in Wales. Nick Gibb, Minister of State for Education in England has agreed to fully amend the Admissions Code in England, in the interests of summer-born children, reiterating England's commitment to enshrine this choice in England's Admissions Code (05/06/18). Scotland has extended the school admissions age to five and a half. Prior to the collapse of the Northern Ireland Assembly, there was a commitment to revisit the school admission age, which is currently four. Similarly, the Tynwald, Parliament for the Isle of Man has recently agreed to look into increasing the school admission age on the Island.

Where a parent is acting within the law and exercising his / her right, it can surely never be acceptable to force a child to miss a whole year of learning. Parents should not be forced to rely on the independent sector of education, in order to meet the needs of their child. Additionally, some parents within the group have been forced to educate their child in voluntary aided schools, or in North Wales border areas, in Cheshire West, in order to secure an 'out of cohort' place for their child; this is unacceptable.

In conclusion, we do not feel that the constant rhetoric peddled by the Education Minister in all correspondence and Twitter Live sessions, where the consistent and standard answer, regardless of

the child's issues or parental reasons, is that the Foundation Phase in Wales is a progressive curriculum and will meet the needs of every child in Wales; it simply does not and to apply this blanket approach and standard answer, is wholly unfair, ill-informed and often, damaging. Where a child has a specific developmental problem, be it physical, social, emotional, or any delay, relevant to this early stage of development and where a parent and indeed, other professionals feel more time would be of benefit, surely, a more fair and flexible policy is required that ensures the best possible start, to what is believed to be the greatest challenge facing a child, in these early years of their lives.

Many of us, within this group feel totally let down by the system in Wales. **This must change.** We also believe that the Welsh Government and local authorities have a responsibility to adhere to the United Nations CRC/GC/14: convention on the Rights of the Child (Article 3, para.1). In applying a blanket "no" approach to the requests for a Reception place at CSA, we believe the Welsh Government and Local Authorities are failing in their obligations:

*"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration"*

The Committee underlines that the child's best interests is a threefold concept:

- a) **A substantive right:** The right of the child to have his or her best interests assessed and taken as primary consideration when different interests are being considered in order to reach a decision on the issue at stake, and the guarantee that this right will be implemented whenever a decision is to be made concerning a child, a group of identified or unidentified children or children in general. Article 3, paragraph 1, creates an intrinsic obligation for States, is directly applicable (self-executing) and can be invoked before a court.
- b) **A fundamental, interpretive legal principle:** If a legal provision is open to more than one interpretation, the interpretation which most serves the child's best interests should be chosen. The rights enshrined in the Convention and its Optional Protocols provide the framework for interpretation.
- c) **A rule of procedure:** Whenever a decision is to be made that will affect a specific child, an identified group of children or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned. Assessing and determining the best interests of the child require procedural guarantees. Furthermore, the justification of a decision must show that the right has been explicitly taken into account. In this regard, States parties shall explain how the right has been respected in the decision, that is, what has been considered to be in the child's best interests; what criteria it is based on; and how the child's interests have been weighed against other considerations.

We implore you to take on board all of the points discussed within this letter and accompanying Snapshot. We ask that you consider, just for one moment, how young these children we are discussing are at this stage of their lives; most western countries consider the ages of six and seven to be more appropriate ages to commence formal, compulsory schooling, such countries have better outcomes in terms of PISA and mental health (Scandinavian countries, Canada, Germany....). If we get children's introduction to school right, we can wholly change their experience and ultimately, their outcomes.

We thank you for taking the time to read this letter and accompanying Snapshot of case studies. This issue is not going away; with greater knowledge, understanding and guidance from the hugely successful England-based campaign, parents are intent on ensuring a fairer system, where the needs of their very young children are no longer dismissed.

## **Snapshot of Case Studies around Wales**

**\*\*Please note that no names of councils, schools or individuals are given\*\***

**Child One, Two and Three** - From one council; 3 experiences within the same academic year of applying for a Reception place at Compulsory School Age CSA

### **Child One –please forgive the detail; it is necessary to highlight the issues of this case:**

Summer-born by C- Section; difficulties during birth resulting in delays, epilepsy, deafness and feeding issues. Additionally, needed to withdraw from birth mother's alcohol and drugs habit. Placed for adoption at two weeks of age; difficult start to life.

After enjoying the small nursery environment, a house move resulted in a change of setting to a much busier nursery environment, which catered for forty children. It was at this point, Child One regressed. Hearing loss was also diagnosed, speech was limited to vowel sounds, from being fully toileted, the child became incontinent – this June-born child's school start was fast approaching (at four years of age). With all of these factors, Child One's mother sought to delay her child's entry into formal schooling until Compulsory School Age (CSA), believing that an extra year to develop physically, emotionally and socially would be a huge benefit to her son. Clearly, Child One would need to start school in the all-important Reception; this request was denied, despite the circumstances – the parent was informed that Child One would be fine because Wales's Early Years Foundation Phase caters for every child's individual needs. No additional support was offered, despite supporting medical reports. The mother declined the child's Reception place at four years of age; Child One was placed in a private nursery, the result being an improvement in behaviour, happiness and the child absolutely thrived in this smaller, supportive setting.

Child One's parent started researching options for schooling at CSA. A local head teacher stated that the child could be supported in Reception at age four and if needs be, could repeat Reception. Such was the reassurance, the mother decided to send Child One on a part time basis, three mornings per week. Again, being in a busy setting, Child One found this difficult and behaviour deteriorated. Speech difficulties made it very difficult socially. At this point, the parent sought support from social services to assist with the difficult behaviour. CAHMS believed that Child One was struggling / reacting due to frustrations and a lack of support at school. The parent was being pressurised to send Child One to school on a full-time basis, this, despite not being of CSA. In light of the difficulties, the parent sought a different school for Child One's entry into school at CSA. The council upheld its view that Child One would not be offered a Reception place at CSA, therefore, the mother became resigned to a Year One start into formal full-time school. A school was found; offered warmth, recognising the difficulties, but as was the council's ruling, this was a Year One place.

The current situation is that Child One is half way through term three of Year One. The school is helping the child as much as is practically possible, within a class of thirty children, but there is an obvious gulf between Child One and the other Year One children; Child One has received no meaningful Reception in-put – along with developmental struggles, Child One has been forced to play 'catch up' from day one and the gap between this young child and peers, grows ever greater.

The mother feels strongly that her child has been let down, from before birth; with all of the issues, highlighted earlier in this case study, but most of all from being summer-born and struggling to catch up with children, older, stronger, more physically and socially developed. It is the mother's belief that a delayed start would have afforded Child One the much-needed extra time to mature and grow stronger, to be supported with speech and language, a Radio Aid could have been issued in a less pressurised environment and become a normal 'tool' to support the child's hearing.

It must also be noted that the manner in which the parent was treated by the LEA was referred to the Ombudsman, who investigated the process. This resulted in a payment of £250 because it was deemed that the council failed to follow the appropriate processes including the Appeals Process. The Ombudsman told the council to re-write the policy, as it was unclear. The mother believes that at this point in time, the policy remains the same.

### **Child Two:**

Very late summer-born. Mother requested delayed start for her child, to Reception at CSA; no obvious delays, merely the feeling that the child would benefit from extra time to grow, develop and mature, before the demands of full-time school.

Over several months, the mother met with council officers, had the support of her local Councillor and Assembly Member, both of whom contacted the council and Education Minister on her behalf. Until the final hour – the first week of September, 2016, when child would be expected to start school at, just turned age four, the request for a delayed start was denied. Out of the blue, Child Two's mother received a letter, granting permission for Child Two to start Reception at CSA, citing the reason being related to the Welsh Language; the council believed that because child two was from a non-Welsh speaking family, in the event that Child Two started her school journey in Year One, it would be necessary for her to attend an Immersion Unit, which it was believed would be too disruptive for the child. This was a welcome, but shock turnaround, after rejecting the mother's request so vehemently, up until this point. Child Two commenced state Reception at CSA in September, 2017 and is doing very well.

### **Child Three:**

Very late August born and three weeks early. Child Three suffered from a developmental bowel condition and was in nappies / pull-ups until two weeks before fifth birthday and remained under the care of a hospital paediatric team until December 2017. At the point where Child Three had just turned four, (September 2016), the bowel issue was still acute, problematic and distressing. In light of the Intimate Care Policy and the birth date of Child Three, the parents considered that a delay of a year would allow their child more time to overcome the developmental problem, seamlessly and without any added pressure, as was the advice from Wales' Senior Paediatric Gastroenterologist. The child continued to attend a private nursery over three days, where the nappy issue was dealt with, seamlessly.

Appeals for the council to support the parents' request were made over many months by Child Three's local councillor and local Assembly Member and cabinet minister. As the council appeared to be applying a blanket approach, and on advice of the council barrister, legal counsel from an education-specialist lawyer was sought and Child Three was granted a Legal Aid certificate. Weeks of misinformation from the council ensued with a complete failure to provide the lawyer and parents with full and detailed reasoning, why granting a Reception place, at CSA was not in Child Three's best interests, despite the head teacher and governors of the chosen school being supportive of such an application. Despite never meeting Child Three or speaking with the child's

nursery and despite medical support for a delay, the council stuck to the line that an out of cohort place would not be in Child Three's best interest and actually, the reasons for such an application failed to meet the council's criteria for out of cohort applications (this statement was later amended when the lawyer pointed out that this was proof of the council applying a blanket policy, despite being required to look at each case on individual merits). The council felt that missing a whole year of Reception would not be problematic, but offered no support to assist Child Three to catch up on the work that had been missed, merely an Early Years Team, covering a huge area, would keep a check on the child.

Child Three's parents approached a neighbouring council, who applied a similar blanket policy, more appropriate for an out of cohort application, much later in a child's education and wholly inappropriate for early years.

In desperation, Child Three's parents sought availability at three local independent schools. All three agreed to offer Child Three a much-needed Reception place at CSA and were dismayed at the stance held by the council. Child Three's grandfather is paying half of the fees for the infant years, in order to assist his grandchild. The child is now doing well in Reception but it is utterly clear from the teaching staff that both emotionally and academically, the council's stance, to force Child Three straight into Year One would have been hugely problematic, difficult and likely to have been damaging.

#### **Council X**

Family currently battling with LEA for child born very prematurely (three months early), at the end of August. On approach to the LEA, regarding the possibility of deceleration of their child to a Reception start at CSA, they were at best, unaware of the summer-born issue, at worst, not at all concerned with the evidence. The family has been advised to provide a developmental report on their child and they are being advised by an education-specialist lawyer.

#### **\*Recently granted a Reception place at CSA**

#### **Council X**

Late August-born child (born three months early) moved to Wales from England aged Four and a half, where a Reception start at CSA had already been agreed. With paediatric consultant support for allowing the child to start full-time formal schooling in the year above, what would be the child's so-called cohort. The LEA declined to make a decision, thus in breach of the Code. The parents approached a local school directly, who turned down their request. The child's needs were only met when the parents approached a Voluntary Aided school, where the child has now attended for a couple of years and is doing well. The child requires some support with certain aspects of learning. The child's parents are dreading the application to high school. The situation in Wales, as it currently stands means that although CSA is five and parents have a legal right to decelerate their child to the term after their child's fifth birthday, the Wales Admissions Code does not address the situation, where some councils / schools allow an out of cohort application at age five merely, resulting in the likelihood of a battle for out of cohort high school places, depending on the will of the LEA / headteacher at that time, meaning that parents and more importantly, such children, are at the mercy of these people. It cannot be right to expect children to skip a year of learning, in order to be placed with their so-called 'natural cohort' and it most certainly is not in the child's best interests.

The parent of this child has made it known that an Occupational Therapist has stated that premature born children in Wales are not given the same flexibility of school admissions, as their England counterparts and

evidence of such children, despite being diagnosed with resultant developmental delays, being forced into school too soon. Often, such children would not need support, given extra time to develop, mature, catch up and grow.

### **Council X**

Despite a very inclusive admissions policy, mentioning summer-born children, the parent of summer-born child, wishing to start child X in Reception at CSA. Outright rejection from the council, citing reasons of such a strategy being “highly intrusive”. This particular council sent the same letter to another parent, proving a blanket approach to this issue. In a telephone conversation between the parent and council (which I have been assured can be verified), the council informed the parent that a Reception place at CSA would never be granted, because every other parent of a summer-born child would want it – unprofessional comments and factually incorrect.

The parent of this child has also approached local schools regarding the issue of a Reception start at CSA and the possibility of sending the child part-time, from age 4. Again, the parent has been treated with disdain and given factually incorrect information.

Within this council, the group is aware of at least two children who have been granted Reception places, as a last resort by Voluntary Aided schools and are doing well, within their so-called adopted cohort.

### **Council X**

Primary school teacher in Wales, of more than ten years. Wishes their summer-born child to start Reception at CSA. This person’s experience of summer-burn struggles have been seen first-hand; the general difficulties experienced by many summer-born children mean that by the end of the Early Years Foundation Phase, such children find the transition to Year 3, more formal learning, the longer days, fewer breaks and higher academic expectations of work and maturity. Whilst teachers differentiate individually, assessments and levelling statements do not. This primary school professional believes that by the end of KS2, many summer-born children are conscious that they are behind the other children, taken out for ‘extra activities’ which has an impact on their confidence and engagement in learning. This individual also makes the point that when Estyn Inspectors visit schools, one of the requests they make is to see data and evidence of work of the summer-born children.

This application for Reception at CSA to come in about a year’s time, but the mother isn’t hopeful of a positive outcome.

### **Council X**

Despite a very inclusive admissions policy, this council has expressed an extremely strong stance against Reception at CSA for a child, with some developmental delays. Whilst it has recognised the parent’s right to delay the child to CSA, the council stated it would not allow a Reception start, despite a belief that a delay to Reception at CSA would most certainly benefit the child, from experts who know child X, it was clear from all contacts that the council would not support this. Child X was offered special needs support at a specialist unit with the aim of the child moving to Year One after a year in this unit. The parent believes that the child, even at this stage, after several months within the unit, will struggle to cope with Year One from September 2018. The parent is dismayed, but feels powerless and daunted at a challenge with the Council, she feels sure that she will lose.



**Council X**

Will not allow Reception at CSA, despite medical / developmental reasons. Is allowing at least two children to attend on a part-time basis, from age 4.

**Council X**

Has taken on board the medical reasons for a child born prematurely, to start Reception at CSA and it has been granted, without any issues.

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On a general note, we know that some parents have simply decided to home school their child / children, others on the North Wales border have opted to school their child/ren in West Cheshire Council, for a more supportive approach to meet their child's needs. Others are considering flexi-schooling, which appears to be slowly growing. Others simply give up and reluctantly send their child into the system, one they feel unable to beat!

We have struggled to obtain relevant 'raw data' regarding the outcomes of Summer-born children in Wales. However, for the majority of parents within our group, this issue is about a holistic approach to child-readiness for school; if the child is developmentally ready for the demands of full-time school, it is felt that outcomes will be improved naturally

As a group, we do not feel that an amendment to the Admissions Code would 'open the flood gates', in terms of applications to decelerate, this is mainly due to the socio-economic composition of Wales. However, offering the parents of summer-born children the choice and flexibility would mean giving these children, many of whom are developmentally struggling in some way, a kinder, positive and more supportive start to their school journey, impacting positively on their mental health. It would also mean parents / guardians not having to face months of stressful, time-consuming and deeply unpleasant battles. We recognise that many will argue that there has to be a youngest in every class, of course, we recognise this, but at such a young age, development is so variable, these extra months absolutely do make all the difference to many children, in every aspect of their development and their ability to cope with the physical, mental, emotional and cognitive demands placed upon them by compulsory full-time learning.

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