

P-05-832 To Amend the School Admissions Code Relating to Summer-Born Children – Correspondence – Petitioner to the Committee, 18.09.18

To the Members of the Committee,

We are grateful to you for considering our petition, and wish to submit the following supplementary information to highlight some of the key points.

1. Necessity of Flexible School Admissions

Currently in Wales, the age at which a child should legally be in formal education is the term after their fifth birthday. However, generally, children start formal education in Reception at age four. Reception has been argued to be the most important school year (Ofsted, 2017), where the basics of literacy, rules, new routines and socialising take place. If children enjoy this important transition into education and are given the opportunity to thrive, this sets them on a positive journey for the years to follow. If this is not the case, children can disengage with the learning process, which has long-term impacts for them.

Owing to the timing of school admissions, summer-born children are put at a significant disadvantage compared to their peers. When applying for a full-time Reception place, many parents must do so for children who are still only three years of age, some of which who will not, for various reasons, be ready for such a big transition, e.g. premature birth, developmental delays and late summer-born children. In such cases, delaying a child's start would allow their problem(s) to improve or be resolved over the additional year. Such children would then start Reception rather than Year 1 at compulsory school age. It is noted that there is no advantage to be gained from deferred entry to later in the 'expected' cohort year (Crawford, Dearden & Meghir 2010).

The debate on flexible school admissions for summer-born children thus far has been erroneously focussed on attainment, with Government responses centring on how the Early Year Foundation Phase (EYFP) is flexible enough for every child to achieve such attainment. However, parents' real concerns at this stage are their child's physical, cognitive, emotional, and social readiness for school: e.g. making friends, communicating needs, toileting, ability to be attentive, self-care, and their child's current and future mental wellbeing. A number of studies have shown that starting formal education at an older age is of great benefit to children, particularly in terms of inattention, hyperactivity and emotional wellbeing. The concern of attainment comes later, where many younger children will struggle in comparison

with their older peers (almost a year older), particularly in tests from Year 2 National Assessments to GCSEs and A-Levels.

2. Reasoning for Amending the Code

Although, as the Cabinet Secretary for Education identifies in her letter, the responsibility for admissions for the vast majority of schools in Wales sits with local authorities, they must act in accordance with the School Admissions Code (2013). Currently, the Code provides that (emphasis added),

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.*

Such wording has been interpreted very narrowly by local authorities. Stating that 'it would not normally be appropriate' for a child to be educated out of cohort suggests to an authority that it should be a rare occurrence. References to a psychologist's report and clear reasons for a decision also create a preconception that a delayed start should only be granted for extraordinary reasons, and so parents may not be able to successfully request delayed admission if they simply feel their summer-born child is not ready. Above all, it should be highlighted that the Code does *not* mention summer-born children. This provides that local authorities refer to their 'out of cohort' policies when dealing with such requests, designed to address completely different issues to those of the admission of young children at the *start* of their school journey. In most cases, this results in a blanket 'no' approach to summer-born requests, even discounting relevant medical and developmental information, and resulting in stressful conflict with the authority for parents or having to seek legal counsel. A sample of case studies are provided as an Appendix (1) to this note.

The key aspect of the Code is that the decision is made on the basis of what is most beneficial to the child; this should be at its core. It must be amended to ensure that requests for the delayed admission of summer-born children are met where the parent believes it is in the best interests of the child.

In a June 2018 Open Question session with the Chair of the CYPE, the Cabinet Secretary for Education referred to a recent study relating to the deceleration of summer-born children. This study was extremely limited and flawed. Here is the link to the report highlighting its failings:

<https://summerbornchildren.org/2018/05/18/dfes-new-report-on-summer-born-admissions-excludes-sen-benefits/#more-6924>

3. Comparison with Other Administrations

It is appreciated that other education systems within the UK are different, but it is a reality that Scotland and England are more understanding of the issues facing summer-born children and make express provision for this. So that the Committee may compare admissions procedures:

England (emphasis added where relevant)

2.17 Parents may seek a place for their child outside of their normal age group, for example, if the child is gifted and talented or has experienced problems such as ill health. *In addition, the parents of a **summer born child** may choose not to send that child to school until the September following their fifth birthday and may request that they are admitted out of their normal age group - to reception rather than year 1. Admission authorities **must** make clear in their admission arrangements the process for requesting admission out of the normal age group.*

2.17A Admission authorities **must** make decisions on the basis of the circumstances of each case and in the best interests of the child concerned. This will include taking account of the parent's views; information about the child's academic, social and emotional development; where relevant, their medical history and the views of a medical professional; whether they have previously been educated out of their normal age group; and whether they may naturally have fallen into a lower age group if it were not for being born prematurely. They **must** also take into account the views of the head teacher of the school concerned. *When informing a parent of their decision on the year group the child should be admitted to, the admission authority **must** set out clearly the reasons for their decision.*

Although somewhat better than the Welsh Code, it is still not ideal. However, this has been recognised by Schools Minister Nick Gibb, who has stated the government's intention to change the admissions rules so that summer-born children cannot be forced to go straight into Year 1 if they wait to start school until they turn five. He has written an open letter to encourage local authorities to take immediate action in advance of the proposed changes.

Scotland (summary taken from Scottish Borders Council; note variance in Scottish 'summer-born' dates)

In Scotland almost all children aged between 4 and a half and 5 years old enrol in primary school at the start of the autumn term. However you can delay entry if:

- your child's **5th birthday is in January or February** the same year as they would start school (you will be offered a free part time nursery place for an additional year.)
- your child's **5th birthday is between 1 September and 31 December** of the year before they would start school (a free nursery place is not automatic and is at the discretion of the local authority.)

4. The Early Years Foundation Phase as a Resolution to Summer-Born Concerns

In respect of the Cabinet Secretary's comments on the EYFP, it should be noted that whilst the curriculum may well be theoretically innovative and play-based, its practical application has been shown to be substantially different. The most recent Estyn Annual Report (2016/17) notes that 'where the [EYFP] is applied as intended, pupils make good progress', however, it is identified that only a *quarter* of schools deliver the EYFP well, with headteachers in *three-quarters* of schools *not* understanding the principles and pedagogy of good EYFP practice. Estyn also notes that three-quarters of schools have struggled to adapt their provision for pupils in Year 1 and 2, with many reverting to more formal approaches, particularly following the introduction of national testing for reading and numeracy. In many of these classes, Estyn found that teachers spend most of their time delivering focused teaching to groups of children, only occasionally interacting with children involved in child-initiated tasks. Summer-born children (especially those with developmental delays) would struggle in schools that adopt such a formal learning environment, and undoubtedly fall behind in large classes.

This has been the experience of many parents and teachers, who state that the pressures of formal learning in preparation for the Year 2 National Assessment are evident from Reception onwards. Until the EYFP can be delivered consistently in schools, it cannot be described as meeting the diverse needs of each individual child, and it cannot be viewed as a resolution to the concerns of parents of summer-born children.

5. Desired Outcomes

It is recognised that delayed entry will not be appropriate for every summer-born child, and not every parent will request it. However, the option must be available to children that would benefit from it.

Given this, we ask that the following amendments to the Code be considered:

- (1) As the first option, requests to defer children with birthdays in certain summer months should be automatically approved (following Scotland's example);
- (2) Alternatively, the wording of the existing provision should be amended to strengthen the rights of parents to delay the admission of their summer-born child, emphasising that local authorities must fully consider such requests on an individual basis. Governmental guidance should also be issued to ensure accurate interpretation of the code and the consistency of its application;
- (3) In either case, provision should be made for children educated outside their age group to remain with their adopted cohort throughout their school life (primary and secondary). Any testing should also be done with their adopted cohort, rather than by age.

Yours sincerely,

Flexible School Admissions Group Wales

Appendix 1

Snapshot of Case Studies Around Wales

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

1. From one council – 3 experiences within the same academic year of applying for a Reception place at CSA

Child One – a great deal of background 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 being allowed an extra year to develop physically, emotionally and socially would be a huge benefit to her son, but 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 to formal full-time school. A school was found and it offered warmth, recognising the difficulties, but as was the council's ruling, 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, 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 the child 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". The same council sent the same letter out 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 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-born's struggles have been seen first-hand; the general struggles experienced by many summer-born children means 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.

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.

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!

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.
