

Cod Derbyn Plant I Ysgolion

Mae pob llywodraethwr mewn ysgolion Cymraeg wedi dod ar draws y problem o ymateb i'r galw am addysg Gymraeg; fel arfer mae yna or-alw aruthrol a nifer o rieni yn siomedig.

Mae y Cynulliad wedi cyhoeddi "Y Cod Derbyn i Ysgolion" sydd yn gosod canllawiau trylwyr ac ar y wyneb rhai sydd yn ymddangos yn ddigon teg. Ond o edrych mewn i'r mater mae yna wahaniaethu rhwng gosod meini prawf ar gyfer gor-alw mewn er enghraifft ysgolion Cymraeg ag ysgolion ffydd.

Mae y cod yn deud:

Wrth bennu meini prawf ar gyfer gor alw rhaid i awdurdodau derbyn beidio a gwneud y canlynol:

Mabwysiadu meini prawf sy'n dethol disgyblion ar sail gallu neu ddawn...Mae'r gwaharddiad cyffredinol ar feini prawf seiliedig ar allu yng nghyswllt ysgolion cyfrwng Cymraeg, yn cynnwys y gallu i siarad Cymraeg

Yn nes ymlaen a thra'n trafod addysg ffydd mae'r cod yn datgan:

Gall ysgolion sydd wedi ei dynodi'n rai crefyddol eu cymeriad roi blaenoriaeth yn eu trefniadau derbyn i aelodau ffydd neu enwad penodol.

Mae hyn yn fy marn i yn gwahaniaethu rhwng ysgolion crefyddol ag ysgolion Cymraeg ac mae angen herio y Cod yma ar sail cydraddoldeb.

Mae'r cod hefyd yn datgan:

Wrth bennu meini prawf ar gyfer gor alw rhaid i awdurdodau derbyn beidio a gwneud y canlynol:

Pan wneir cais am le mewn dosbarth derbyn, rhoi blaenoriaeth i blant sydd wedi mynychu dosbarth meithrin yr ysgol.

Mae polisi sydd yn gwahardd plant sydd wedi bod yn y meithrin mewn Ysgol Gymraeg rhag mynd i'r derbyn yn gwbwl annheg, os ydy ymrwymiad rhieni mor gryf dros addysg Gymraeg drwy yrru ei plant i'r dosbarth meithrin mi ddylsen nhw dderbyn blaenoriaeth i'r dosbarth derbyn.

Mae'r sefyllfa a ddisgrifir uchod wedi digwydd mewn ysgolion Cymraeg yn Wrecsam lle ryda'n wedi colli plant rhugl eu Cymraeg o'r sector addysg Gymraeg oherwydd rheolau gwahaniaethol fel y Cod Derbyn i Ysgolion

The School Admissions Code

Every Governor in a Welsh-medium school has come across the problem of meeting the demand for Welsh-medium education; usually schools are hugely oversubscribed and many parents are disappointed.

The Assembly has published the “School Admissions Code”, which sets out thorough guidelines that are, on the face of it, perfectly reasonable. However, looking more closely at the issue, in the setting of criteria for oversubscription, some schools are discriminated against, for example, Welsh-medium schools and faith schools.

The code states:

In setting oversubscription criteria admission authorities **must not:**

Adopt criteria which select pupils on the basis of ability or Aptitude... The general prohibition on ability based criteria includes, in the case of Welsh medium schools, the ability to speak Welsh.

Later, while discussing faith-based education, the code states:

Schools designated as having a religious character may give preference in their admission arrangements to members of a particular faith or denomination.

In my opinion, this discriminates between faith schools and Welsh-medium schools. This code needs to be challenged on the basis of equality.

The code also states:

In setting oversubscription criteria admission authorities must not:

In the case of application to a reception class, give priority to children who have attended the school’s nursery class.

A policy that excludes children who have attended a Welsh-medium school’s nursery class from moving to the reception class is completely unfair. If the parents’ commitment to Welsh-medium education is so strong that they send their children to the nursery class, they should have priority for the reception class.

The situation outlined above has happened in Welsh-medium schools in Wrexham, where we have lost fluent Welsh-speaking children from

the Welsh-medium education sector because of discriminatory regulations such as the School Admissions Code.

18 am

Response from Minister for CELL

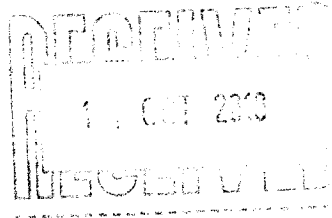
Leighton Andrews AC/AM
Y Gweinidog dros Blant, Addysg & Dysgu Gydol Oes
Minister for Children, Education & Lifelong Learning



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf/Your ref P-03-293
Ein cyf/Our ref LA/02661/10

Christine Chapman AM
Chair
Petitions Committee
National Assembly for Wales
Cardiff Bay
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6 October 2010

Dear Chair,

Thank you for your letter of 21 September 2010 in your capacity as the Chair of the Petitions Committee relating to the petition received from Councillor Arfon Jones about Welsh medium education and possible amendments to the School Admissions Code.

In my reply I cover:

- The general approach to the provision of Welsh-medium education;
- The situation in the petitioners' local area, to which the petition's supporting information alludes; and
- The purpose and intention of the provisions in the Code:
 1. in relation to the provisions on selection
 2. in relation to the provisions on transition from nursery to reception.

Provision of Welsh-medium education

I would like to begin my response with some background information on the approach adopted to the provision of Welsh-medium education. Our overall policy on the Welsh language is set out in Iaith Pawb, the national action plan for a bilingual Wales. This recognises the importance of education in turning our aspirations for a bilingual Wales into reality.

It is, as you know, the duty of Local Authorities (LAs) to provide sufficient schools to meet the needs of local communities. They must therefore assess parental demand for different types of schools, and seek to meet that demand, with due regard for efficiency. There are well established procedures for the establishment of education provision including Welsh medium provision. If demand for Welsh medium education grows, as we hope it will, it will be for LAs to identify that demand, and organise schools in their area accordingly.

Local provision – Ysgol Plas Coch

I understand that there has been an increase in demand for Welsh medium education provision in the northern part of the area covered by Wrexham LA. As a result Ysgol Plas

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Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

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Coch, the Welsh medium primary school which serves the area, is oversubscribed. Currently there is maintained nursery provision at the school. In line with the School Admissions Code, parents of pupils attending the nursery provision have to apply for admission to the reception class at Ysgol Plas Coch. There have been instances when pupils attending the nursery provision have not met the oversubscription criteria for the school and their applications have been unsuccessful. These oversubscription criteria are set by the LA, as the relevant admissions authority. On such occasions the LA has offered places at other Welsh medium primary schools in Wrexham. However, some parents have chosen not to take up these offers.

In order to meet the increase in demand in the short term the LA has increased the capacity of Ysgol Plas Coch by providing temporary accommodation. As a long term solution the LA propose to establish a new 210 place primary school in the Gwersyllt area, approximately 2 to 3 miles from Ysgol Plas Coch.

In my role as Minister for Children, Education & Lifelong Learning I cannot comment on the merits of any proposal to establish a new Welsh medium primary school, as it would have to be the subject of statutory procedures before any additional provision could be provided. As you will be aware, if anyone objects to such a statutory proposal, I have the duty of deciding whether or not the scheme should proceed. I am therefore obliged to remain impartial at this stage.

I do not accept, however, that the School Admissions Code “discriminates against children who are able to speak Welsh” or that a change to the Code would be an appropriate remedy for this situation, for the reasons set out below.

The School Admissions Code - provisions regarding selection

Section 99 of the School Standards and Framework Act 1998 places a general restriction on the adoption by any school of selection **by ability** as a means of allocating places, except (principally) schools with partially selective arrangements which already had such arrangements in place at the beginning of the 1997/98 school year. Section 39 of the 2006 Education and Inspections Act reaffirmed the position. Stemming from this, paragraph 2.26 of the Admissions Code therefore instructs admission authorities that they must not adopt an oversubscription criterion which selects pupils on the basis of ability or aptitude, including the ability to speak Welsh

The Code provides that schools with a designated religious character may, if there are too many applicants for the places available, give first priority to children of the faith in question, but if the number of applicants matches the places available, all must be admitted, regardless of factors connected with faith. As you will appreciate, adherence to a particular faith is not construed as an “ability” but is, rather, a matter of fact; therefore the comparison with section 99 does not apply. Indeed, the scope for places to be allocated on the basis of adherence to a particular faith is underpinned (with some caveats) by legislation, including the Human Rights Act 1998.

Paragraph 2.39 of the Code confirms that faith based oversubscription criteria must “not conflict with other legislation, such as equality legislation or the mandatory requirements of this Code”, whilst the Code as a whole support the Welsh Assembly Government’s expectation that any admissions arrangements put in place (including oversubscription criteria) be transparent, open and fair.


The School Admissions Code – provisions in relation to oversubscription criteria relevant to Primary admissions

In addressing the matter raised by Councillor Jones' comment that the "policy needs to be amended to give children who were in nursery education in a Welsh school priority for reception class". I would draw your attention to the thrust of the School Admissions Code in requiring open and fair arrangements to be applied, as outlined above. Paragraph 2.54 reflects this intention for both English and Welsh medium nursery and reception education by stating:

- *Admission authorities must not include attendance at the nursery or the co-located children's centre for nursery education in their oversubscription criteria. Such arrangements can advantage those parents willing to travel a substantial distance to allow their child to attend nursery school so that they will have priority in admission to the primary school over more local parents. Such criteria may also disadvantage families who have recently moved to the area and those who have opted for other providers or who choose to take up free entitlement at an alternative provider. It may make some parents feel they have to enrol their child at the school before they consider him or her ready, in order to gain a place at the primary school.*

In summary, the provisions of the Code quoted above are intended to avoid disadvantaging parents who seek to have their child attend a given school just because they have chosen to educate that child, whilst still below compulsory school age, other than through a nursery attached to that school. This provision applies to all primary schools, irrespective of language medium and, taken together with the provisions in the Code relating to selection by aptitude referenced above, are intended to provide equality of access to all children to education through the language medium of choice.

I trust that this information provides clarity in relation to the issues that have been raised.

Yours sincerely


Leighton Andrews AM
Minister for Children, Education & Lifelong Learning

Response from Petitioner

Rhodri,

Diolch am hyn, dydw i ddim yn cytuno hefo dadansoddiad y Gweinidog ond dwi hefyd yn derbyn mae fo yw y Gweinidog ac annhebyg y bydd o newid ei feddwl, felly dwi ddim yn gweld llawer o bwrpas mewn trio mynd ar mater yn bellach, onibai wrth gwrs fod aelodau y Pwyllgor wedi gweld rywbeth dydw i heb!

Hoffaf ddiolch i'r Pwyllgor Deisebu am ystyried y ddeiseb.

Diolch,
Arfon Jones, BSc(Hons), MA.

Rhodri

Thank you for this. I do not agree with the Minister's analysis but I also accept that he is the Minister and is unlikely to change his mind. Therefore, there is not much point in trying to take the matter any further, unless Committee Members have seen something that I have not!

I would like to thank the Petitions Committee for considering the petition.

Thank you,
Arfon Jones, BSc(Hons), MA.

Response from Petitioner

From Councillor/Oddi wrth y Cynghorydd

O Arfon Jones



29th November 2010

Christine Chapman AM,
Chair, Petitions Committee,
National Assembly for Wales,
Cardiff Bay,
Cardiff.
CF99 1NA.

Dear Ms Chapman

Re: P-03-203 Review of Schools Admission Code.

Thank you for your letter of the 22nd November 2010, enclosing a copy of Leighton Andrews's response to the petition.

I would like to make the following observations on the Minister's response:

The School's Admission Code – Provision regarding selection

The Minister differentiates between 'faiths' and 'Welsh' on the basis that 'faith' is a 'matter of fact' whilst speaking Welsh is a matter of 'ability.' This is absolutely wrong, a child born into a family that speaks Welsh, English or any other language WILL speak that language irrespective of 'ability;' and in fact is no different whatsoever, to your contention that 'faith' is a matter of fact.' Clearly a child inheriting a language through nurturing and not through ability is as much a matter of fact as is a child's faith. I don't decry the fact that faith can be an oversubscription criteria but I do decry the fact that a child's first language inherited and NOT developed through ability is not allowed.

The School Admissions Code – provisions in relations to oversubscription criteria relevant to primary admissions.

The Minister includes the relevant paragraph of the Admissions Code and the attempt at disadvantage is particularly commendable but by preventing the disadvantage of some do you not disadvantage others. For example, are not Welsh Schools for those who ALREADY SPEAK WELSH and whose parents wish their children to learn Welsh? How therefore does preventing a child who has inherited the Welsh language from parents as a first language from progressing from nursery to reception; surely that child is disadvantaged. I also believe that the part of the paragraph which relates to parents travelling distances is flawed in that oversubscription policy

relating to 'proximity' negates this. I fail to understand the argument surrounding enrolment; parents now enrol children in the school's of their choice as soon as they are born!

I hope that this response will assist the Committee's deliberations and hopefully find that the Admission Code is flawed and is fundamentally disadvantages 'first language' Welsh speakers.

Yours sincerely,

Arfon Jones.

Our Ref/Ein Cyf: P-03-293 / P-03-305
Your Ref/Eich Cyf: 4th February 2011
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Please ask for/Gofynnwch am: Chris Llewelyn
Direct line/Llinell uniongyrchol: 02920 468600
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Christine Chapman AM
Chair, Petitions Committee
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Dear Ms Chapman,

Thank you for your letter of 14th January, 2011, asking for the Association's views on two petitions on the School Admissions Code and Statutory School Libraries. Comments on each follow:-

P-03-293 Schools Admissions Code

The petitioners are seeking a review of the Code on three grounds:-

- that it discriminates against children who are able to speak Welsh;
- that it should be amended to give children in Welsh medium nursery classes priority for admission to admission into the reception class of the same school; and,
- that it discriminates against children having a faith or religion.

The Code was issued as recently as July, 2009, following a period of consultation during which WLGA understands that all local authorities that responded were supportive of the Code. On the specific points raised by the petitioners, these are covered in Paragraph 2.26 of the Code which is explicit in setting out criteria which local authorities or other admissions bodies must not adopt. The first of these is that authorities must not seek to admit pupils on the basis of ability or aptitude (other than in a small number of defined circumstances such as sixth forms).

Steve Thomas CBE
Chief Executive
Prif Weithredwr

This includes a general prohibition on the ability to speak Welsh in the case of Welsh Medium schools as a means of selecting pupils for admission. That is intended to create an even playing field for all expressing a preference for admission to Welsh medium schools, whatever language(s) they are able to speak. Conversely, for example, an admissions authority could not allow an English medium school to use the criterion that a pupil not able to speak English should not be admitted. It would have to use a range of other criteria to determine admissions.

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On the matter of admissions to reception classes, that too has to be on grounds equal to all seeking admission. Again, the application of objective criteria for pupils already in nursery classes but moving to reception has to apply as children are moving into the statutory phase of education

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from early years settings. That provision is universal, applying equally to those going into any reception class from any nursery class regardless of language.

As to religious faith, admissions can only be based on that as a criterion in the case of a school designated as having a religious character under appropriate equality and education legislation. So here again, the emphasis on admissions to schools not having a religious character is intended to achieve an equitable set of criteria. The latter point is what underpins the Code - all admissions should be considered against a range of objective criteria so that all expressing a preference for admission to school are treated in the same way.

On that basis, it is difficult to argue against its provisions and to support any revision on the basis of what appear to be a specific set of local circumstances around admissions to some schools in a particular locality. WLGA therefore feels that revision of the Code is not warranted.

P-03-305 Statutory School Libraries

The petitioners in this case wish to see an acceptance by the National Assembly for Wales of the principle that school libraries will become statutory provision run by suitably qualified staff, and calls for the preparation of legislation and appropriate consultations. School libraries were last inspected by Estyn on a thematic basis in 2002, at which time 15% of schools had unsatisfactory arrangements.

Whilst that specific report was some years ago, the new Common Inspection Framework and Guidance in place since 2010 includes the following requirements for those making judgements when inspecting schools :-

- in terms of the school's physical environment, inspectors should have regard to whether "...[there are] enough resources that are well matched to pupils' needs" and establish whether there is a "stimulating and well-maintained learning environment";
- they will also look at how the school supplements and enriches the curriculum; and of particular importance here:-
- sources of evidence will include "availability of learning resources, including library provision, and access by pupils & staff to an appropriate range of books, ICT resources, practical equipment and audio-visual materials to support learning & teaching during and outside of school hours"

This is of course a statutory provision. WLGA is of the view that as school libraries are the subject of inspection, and given the fact that legislation as proposed has cost, staffing and, in some cases potential space implications for schools and local authorities, their management and function is really a matter of best practice and its application, and should remain so.

Yours sincerely,



Councillor Peter Fox
WLGA Spokesperson on Lifelong Learning & Skills
Leader, Monmouthshire County Council

Leighton Andrews AC/AM

Y Gweinidog dros Blant, Addysg & Dysgu Gydol Oes
Minister for Children, Education & Lifelong Learning



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf/Your ref P-03-293
Ein cyf/Our ref LA/00120/11

Christine Chapman AM

Christine.chapman@wales.gsi.gov.uk

26 January 2011

Thank you for your further letter of 14 January 2011 in your capacity as Chair of the Petitions Committee relating to the response from Councillor Arfon Jones, the petitioner, to my original response to his petition about Welsh medium education and possible amendments to the School Admissions Code.

Further to my original reply, and as indicated in it, the Welsh Assembly Government is obliged to ensure that the law as contained in the School Standards and Framework Act 1998 (SSFA 1998) is adhered to in Wales. Section 99 of the SSFA effectively prohibits selection by ability, whilst section 99 (5) (b) of that Act states that "“ability” means either general ability or ability in any particular subject or subjects;”

A child able to communicate in Welsh is clearly in possession of an ability in the acquisition of language (in this case, Welsh), much as would be the case were they to have an ability in any other language. We consider that to put in place oversubscription criteria which favour those who can communicate in a particular language, or indeed at all, would therefore amount to selection by ability. The Welsh Assembly Government therefore reflects this position in paragraph 2.26 of the School Admissions Code where it instructs admission authorities that they must not adopt an oversubscription criterion which selects pupils on the basis of ability or aptitude, including the ability to speak Welsh.

I would like to emphasise, as I did in my original reply, that it is the duty of Local Authorities (LAs) to provide sufficient schools of suitable types to meet the needs of local communities. They must therefore assess parental demand for different types of schools, and seek to meet that demand, with due regard for efficiency. Should demand for Welsh medium education grow, as we hope it does, it will be for LAs to identify that demand, and organise schools in their area accordingly, preferably in such a way that the situations exemplified by the petition rarely arise.


I do not agree that the provisions regarding oversubscription criteria contained within the School Admissions Code in themselves prevent Welsh-speaking children from accessing Welsh language education, or indeed stop them from proceeding from nursery to compulsory provision in the same school. What they do, rather, is to provide a level playing field for *all* children, regardless of mother language or education setting prior to compulsory school age, to access education in the language medium of their parents' choice.

Whilst it may be that, in a given situation, a child at nursery may fall foul of over-subscription criteria because there are others entering compulsory education at that time who score against the lawfully-set criteria more highly than they do, we would nonetheless expect that suitable provision would be made available to them elsewhere, through the medium of Welsh if that is their parent's preference. Clearly, if the parents then chose not to take up that provision, that would be a matter for them.

With respect to the interplay between oversubscription criteria relating to proximity and any potential criteria in relation to nursery attendance, I believe that your correspondent's point is that the criteria could be so ranked that parents in the immediate locality who had placed their children in the nursery would take priority over those who had done the same but lived a greater distance away. I am not convinced that such an arrangement would work in practice, however, even were it not to fall foul of the provisions regarding equality of access that I have outlined above and in my previous reply.

Finally, in his response, Councillor Jones appears to imply that it is possible to reserve a place at a school shortly after a child is born. Whilst I understand that in the private sector such enrolment can occur, in respect of the maintained sector the Admissions Code describes a child as having been "allocated a place" when an application form has been completed by the parent and notice has been given in writing by the admission authority that a place has been allocated. In respect of a normal year of entry (i.e. reception or year 7), this process usually commences in the year before that in which the child will be admitted, certainly not at birth or shortly thereafter.

I trust that this further information provides clarity in relation to the further issues raised by Councillor Jones.

Yours sincerely


Leighton Andrews AM
Minister for Children, Education & Lifelong Learning