



Eich cyf/Your ref P-04-566  
Ein cyf/Our ref HL/01616/14

William Powell AM

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Dear William

Thank you for your recent letter in which you seek my views on a petition received from Jane Chapman in respect of the School Admissions Code ("the Code").

I would like to address each of the points as follows

**The Code is not fit for purpose because:**

- **It plays lip service to the United Nations Rights of the Child as there is no requirement to consult with children in decisions that affect them.**

Whilst the Code itself does not stipulate that consultation with children on any particular aspect of school admissions must be undertaken, admission authorities need to consider how any decisions they make would affect them. One of the key principles set out in the Code is that admission arrangements must be procedurally fair and equitable for all groups of children.

Before the statutory consultation on the Code was carried out, my officials gave due consideration to the United Nations Convention on the Rights of the Child. A user friendly consultation document was distributed to children and young people. Children and young people provided 117 responses and these helped to inform the Code. It should be borne in mind that the law on admissions to schools provides a right for parents to express their preference, and it can be expected that when parents consider what preferences to express, they will consider the views of their children.

- **It plays lip service to the Equality Act as there is no requirement to undertake an Equality Impact Assessment.**

Whilst the Code itself does not state that Equality Impact Assessments must be undertaken, all admission authorities are under a duty to ensure that they comply with equalities legislation when fulfilling their responsibilities. This is clearly set out in Annex E of the Code.

- **It is not prescriptive enough so leads to differences in implementation, some good, some bad.**

The Code refers to both existing statutory requirements and itself imposes mandatory requirements with which prescribed bodies **must** comply. Where mandatory requirements are imposed by the Code, it is stated that the relevant bodies **must** comply with the particular requirement or provision. Where the Code prohibits practices, it is stated that the relevant body or bodies **must not** use this practice.

The Code also includes guidelines which the relevant bodies should follow unless they can demonstrate that they are justified in not doing so. Where guidelines refer to good practice, the Code states that the relevant bodies **should** follow the particular guidelines. On the other hand where the guidelines refer to actions normally regarded as poor practice, the Code states that the practice **should not** be used although there may be exceptional circumstances when it is justified.

Failure by an authority or body to comply with the mandatory provisions in the Code may result in a statutory objection or complaint being made to the Welsh Ministers. Failure to follow guidelines in the Code may also lead to an objection or complaint being upheld if admission authorities are unable to justify departing from those guidelines.

It is not possible for the Code to give exhaustive guidance, as it would be impossible to anticipate every eventuality. Admission authorities are best placed, in the light of detailed consideration of the circumstances of individual cases, to make judgements when called upon to do so.

- **There is very restricted rights of appeal for parents and governing bodies to Welsh Government in particular governing bodies who are considered statutory consultees and yet are restricted to very specific circumstances in which they can appeal.**

My officials carried out a 14 week consultation on the Code before it was finalised. At no point during this period was the issue of restricted right of appeal raised by any school governing body or parent. Governing bodies are able to object to the admission number which has been determined for their school, and no such objection has been dealt with in recent years. No governing body has made representation that they should have greater scope to object to admission arrangements. Parents are able to object in other limited circumstances, and such objections are very rare.

- **The wording within the School Admissions Code is ambiguous and is not easy to penetrate by those who are forced to use it.**

The Code itself is designed for use by practitioners, for example, local authorities and governing bodies. These bodies must “act in accordance with” the statutory aspects Code and comply with the guidance unless there is an overriding reason to depart from it. My officials are currently in the process of designing a user friendly guide to school admissions and school admissions appeals for use by parents. This will be subject to consultation in due course.

- **The School Admissions Code does not define “reasonable” with regards to consultation periods.**

It is for admission authorities to define what “reasonable” is in respect of consultation periods. In doing so, they should ensure those periods are fair and sensible, so that if challenged, their position is defensible.

- **The School Admissions Code, for all of the above reasons, it not appropriate when dealing with significant changes such as changes to catchment areas.**

How catchment areas are aligned is a matter for admission authorities. The Code provides that where they are used, they should be reasonable and clearly defined. Where significant changes are to be made they must be consulted upon, determined and published in the same way as other admission arrangements. This is clearly set out in the Code.

The Code was issued in July 2013 following a period of consultation, and after it had been laid before the National Assembly for Wales for consideration without any objection. There are currently no plans to revise the Code further at this stage, but the points raised within the petition will be kept for future reference and considered when the next review takes place.

I hope that this information addresses the petitioners’ concerns. I would also like to make it clear that whilst it is important that there are structures in place in relation to admissions to schools, of great importance too, is our drive to promote improvement in all schools so that children will receive the best possible provision, in whichever school is chosen for them.

Yours sincerely



**Huw Lewis AC / AM**

Y Gweinidog Addysg a Sgiliau  
Minister for Education and Skills