



'FINAL DECISION' by Local Government Ombudsman Condones Discriminatory Admissions Practices for Summer Born children

PRESS RELEASE -- Embargoed until 00:01 June 15, 2014 (GMT)

In a controversial *Final Decision* published on May 14, 2014 (in a complaint that was 'Upheld' against County Durham Council on January 11, 2014), the Local Government Ombudsman (LGO) has determined that primary school **applications from parents of summer born children** entering Reception class at compulsory school age (CSA) can be left at the bottom of the pile, with their school places **allocated ONLY AFTER all other 4-year-old children** have been allocated Reception class places. The *Summer Born Campaign* group says this discrimination is just the tip of the iceberg.

THE 'THRICE DENIED' LGO DECISION:

1. Child "N could not have had a place in the Reception year ahead of any other child of the correct age."
2. "Clearly, it would have been wrong for an admissions authority to have offered a place in Reception for N if any other applicant in the correct age group would thereby have lost a place."
3. "...he could not have taken a Reception place ahead of any other applicant of the correct age."

This shocking decision only adds to the unfair, unpredictable, obscure and increasingly subjective admissions process and access to a full and effective education that the Department for Education (DfE) advocates for parents of summer born children via paragraph 2.17 of the School Admissions Code. And ironically, the LGO actually made its decision in the same month that the '*Summer Born Campaign*' group called on the Education Secretary to urgently amend his Department's ambiguous Code – as the only possible way to **ensure equal education rights for all children** (for more info read the January 2014 report "*Compulsory School Age in England has been Lowered to 4 through an Unfair and Unlawful Summer Born Admissions Process*").

Five months later, and with **no intervention from Michael Gove**, the postcode lottery for summer born children is even worse, as the examples below illustrate (and these are just a very small selection of cases the group is aware of):

Summer born children with Downs Syndrome being denied entry to Reception class at CSA (offered Year 1 only) by some authorities while May born children with no special needs or developmental delays *are* allowed access by others; children being forced to skip a year of education later on in primary school (moved out of their own year group into the one above, simply to return to their 'correct chronological age' year group), while the DfE responds to parents' desperate pleas for intervention with the stock line, '*decisions are best made locally*'; children of military and immigrating families being told they must join their 'correct chronological year group' instead of continuing in the year group they have been educated in prior to moving; parents told to enroll their children in school at age 3 for three weeks' induction in the summer term before the September they'll be starting (already) one year early, to "become familiar with... rules and routines"; the DfE advising parents to apply for age 4 school entry 'just in case' their request for Reception class entry at CSA is denied, but since most admission authorities only make a decision in the year of CSA application (not before), parents must choose between entry at age 4 or the gamble of no school place at all (i.e. Reception class denied but Year 1 is full); a head teacher retracting their support of parental request after the council threatened to deny funding of child in Year 6 because he would be older than 11; and statutory school preferences being effectively voided because parents are limited to listing schools on their paper* application form that will or 'might' allow their request (*the online application is not available to them).

Essentially, the LGO has given a green light to all admission authorities to say to parents:

"If you apply for a Reception class place for your summer born child one year early (i.e. to start in the term or academic year following their 4th birthday), your child's application will be processed fairly and subject to the same published over-subscription criteria as all other children. But if you apply for entry to Reception class at CSA (i.e. to start in the term following their 5th birthday), your child's application will be processed last and your child will be in a worse position than any other applicant; it is also very possible they will not be allocated a place in any of your preferred schools."

The legality of the LGO's decision may be in question too, given that the law* says:

"For the purposes of these Regulations an application is made in the course of a normal admission round if it is not a late application or an in-year application."

Since summer born applications submitted by the January 15 deadline for entry into Reception class at CSA are neither "in-year" nor "late", there appears to be no legal justification for leaving the allocation of their places until last.

*The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012

SENDING PARENTS IN CIRCLES IS NO REMEDY:

The LGO decides that no further action or remedy is necessary on its part – because child N was eventually offered a Reception class place 'somewhere':

"though she was happy with the school N attends, the Council should have advised a second school to consider her application. She said N's older sibling attends this second school and she would have preferred both children to attend together." This is extremely important to many parents, for family, pedagogical and practical reasons.

The LGO suggests that Miss X could complain against the school N's sibling attends (which refused to consider her request for Reception class at CSA) – having just made clear that *"authorities do not have to offer a place out of a child's chronological age group... [and] Miss X would have had no right of appeal if the offer had been a Year 1 place"*:

"It would therefore have been open to Miss X to complain against the second school in its role as the admissions authority." What would be the point in her doing this, given the 'no right of appeal' statement above?

The LGO then contradicts its unfair assertion that N could only be allocated a place after all other applicants:

"I would expect the Council to treat all applications for school places equally favourably in future by processing them fairly when acting in its role as the co-ordinating authority."

Or does the LGO believe its assertion to be fair and equally favourable?

MEDIA NOTES:

The DfE updated its July 2013 Summer Born advice in May 2014 – one week before the LGO published its decision – and the key change is that for all schools (except academies) where parents are unhappy with the complaints process locally, instead of contacting the Education Secretary (as before), they should now contact the LGO instead.

Again, given the LGO's view of summer born applications, what would be the point?

In May 2011, Gove said of his new Code: *"one of the other things we want to do is ensure that in the system there will be more fairness, the schools adjudicator will have more teeth, so that anyone concerned about admissions arrangements can report them to the schools adjudicator.... now if you are a parent anywhere and you see admissions arrangements which you think are unfair you can refer it to the schools adjudicator. Our aim is to... have a strong adjudicator who is in a position to investigate and clamp down."* (Guardian 22/05/11 J. Vasagar) Isn't this decision a **FAIL** for "more fairness"? Surely the DfE must now instigate an inquiry via the Communities and Local Government Select Committee to investigate and clampdown on the LGO?

Campaigners Pauline Hull and Michelle Melson:

*“The LGO (but also separately the Office of the Schools Adjudicator and most admission authorities) has inferred from the 2012 Code an expectation that children in England start school at age 4, with little or no regard to wider primary legislation. And because the 2012 Code only prescribes how applications for children starting school **prior** to CSA should be processed, and is silent on how applications for summer born children entering Reception class **at** CSA should be administered, Ministers and the DfE have now exacerbated the problem by endorsing paragraph 2.17 as a sticking plaster ‘fix’ and ‘catch all’ clause instead of addressing the absence of summer born detail (it was clearly never meant for first time admission to school; it provides no right of appeal for example, which all other parents have).*

“If Ministers such as Elizabeth Truss and David Laws are serious when they say, “We are absolutely clear that parents should be able to say to a school, “We want our child, who is aged five, to enter reception”, if they feel that that is in the best interests of their child.” (September 2013) and “we will take action if we find that schools are not paying attention to parental demand” (March 2014), then we want to know:

– WHERE AND WHAT IS THAT ACTION?

– **WHAT ARE THEY DOING ABOUT CHILDREN WHO HAVE NO SCHOOL PLACE FOR SEPTEMBER 2014**, JUST BECAUSE THEIR PARENTS DARED TO APPLY FOR RECEPTION CLASS ENTRY AT COMPULSORY SCHOOL AGE?

“Since everyone in authority only appears to look towards the Code for lawful instruction, we maintain that the Code urgently needs amending, and the simple wording suggested below would prevent the subjective, biased and discriminatory process that exists now:

Parents who wish their summer born (April 1st – August 31st inclusive) child to enter Reception class at compulsory school age must submit an application for the relevant academic year. The application must be treated equitably with children starting school prior to compulsory school age, and the child can remain with that year group cohort for the remainder of their education.”

Final Decision details:

County Durham Council (13 013 380)

Date Published: 14/05/14

Decision :Upheld

Decision date :11 February 2014

<http://www.lgo.org.uk/decisions/education/other/13-013-380>

Further information (and a detailed breakdown of the potential flaws in the LGO’s decision) is in the article:

“LGO Decision on summer born admissions Condones Discriminatory Practices”

Find it on the summerbornchildren.org website.

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