



Peter McCallion,  
Clerk to the Committee,  
Committee for Education,  
Northern Ireland Assembly

29<sup>th</sup> November 2012

Dear Mr McCallion,

### **Re: proposed amendment to Education Bill**

We are writing on behalf of an umbrella campaign group which is calling for a measure of greater flexibility in the school starting age. This group comprises the following groups: ParentsOutloud, the Association of Teachers and Lecturers (ATL), Early Years, Adoption UK, The Fostering Network, the British Association for Adoption and Fostering, TinyLife and TAMBA NI (an organisation supporting families of multiple-birth children).

We wish to request that the Committee proposes an amendment to the Education Bill, which would clarify the current legislation on the school starting age to explicitly and unambiguously provide for a degree of flexibility in the school starting age in certain circumstances.

### **Our interpretation of the school starting age legislation**

We briefed the Committee two years ago with regard to our case for greater flexibility in the school starting age in Northern Ireland. We warmly welcome the fact that the Committee followed through by obtaining some relevant research and information on the issue.

At the time, we highlighted the fact that the Education and Libraries (NI) Order 1986, article 45 (1), states:

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, either by regular attendance at school or *otherwise*.<sup>7</sup>

The use of the word 'otherwise' is designed to cover children who are home-educated. However, we have sought legal opinion and have been advised that this wording does not preclude school-age children from being educated in a pre-school setting. We therefore believe that a more flexible system could be operated by using this provision.

### **The Department's interpretation of the school starting age legislation**

However, the Department of Education has taken a different and very firm view. In a letter to the Education Committee, dated 14<sup>th</sup> March 2011 and in response to a query from the Committee, the Department stated:

Legislation for compulsory school age is governed by Article 46 of the 1986 Education and Libraries (NI) Order as substituted by Article 156 of the Education

Reform (NI) 1989 Order. This Order does not provide for any flexibility to the minimum starting age. Therefore, any plans to introduce flexibility to, or to raise the current starting primary age, would require an amendment to the 1986 Order by means of an Assembly Bill.

It should be noted that this letter did not refer to Article 45 (1) above which we highlighted in our original submission to the Committee, and which the Committee quoted in its query of 26<sup>th</sup> November 2010 to the Department. It should further be noted that the Department's letter did go on to provide information on one exception – children with stated special needs – who are afforded flexibility through another piece of legislation. For the convenience of the Committee, we have enclosed copies of the Committee's original letter to the Department, and of the Department's response (which was forwarded to us by the Committee at the time), and its two appendices.

### **Our proposed amendment to the current legislation**

In light of the Department's firm view, we wish to request that the Committee propose an amendment to the Education Bill, to insert a clause which would amend the Education and Libraries (NI) Order 1986, article 45 (1) so that the Order explicitly permits a child of compulsory school age to be educated in a suitable pre-school setting in certain circumstances.

We suggest a minor amendment to the wording of article 45 (1) to be inserted in the Education Bill. Once the Bill had been enacted, the Department could issue a Regulation which would clarify in what circumstances such flexibility would be permitted. We do emphasise that we have no wish to deny any parents their existing right to educate their children at home, regardless of the age of those children, and our proposed amendment takes this right into account.

We therefore propose that Article 45 (1) of the Education and Libraries (NI) Order 1986 should be amended as follows:

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, either by regular attendance at school or *otherwise*, including a suitable pre-school setting, where appropriate.

### **Why greater flexibility is needed**

As the Committee will be aware, the statutory primary school enrolment age in Northern Ireland is the lowest in Europe. There is compelling evidence from both Northern Ireland and England (where most children also start school at four years) that children who are young within their academic year are at greater risk of suffering both educational and psychological disadvantage. The Committee was instrumental in eliciting relevant data which demonstrated the greater risk of psychological disadvantage for 'young for year' children in Northern Ireland.

There are also particular concerns with regard to certain other specific categories of children who, if they start school prematurely, may also suffer such disadvantage. We would further highlight the fact that greater flexibility with regard to the school starting age exists in both the Republic of Ireland and in Scotland without, it would seem, causing any undue difficulty for education authorities or schools.

While we would welcome a formal review of the school starting age, we appreciate that any such review and any subsequent change in the enrolment age would form part of a lengthy process. In the meantime, the current system is continuing to fail some children by forcing them to commence formal education at an inappropriately early age. We therefore believe that the introduction of a simple and modest measure of flexibility with regard to the current legislation would provide the best interim solution.

We are requesting this legislative amendment, so that parents of children in the following categories can be permitted a one year deferral of their child's primary school place, where they judge that this is in the best interests of their child:

- children born in May, June, or July 1<sup>st</sup>
- children born prematurely
- young-for-year multiple-birth children
- children with non-statemented additional needs
- adopted and looked after children

We would like the above categories to be covered by the Regulation which we would propose the Department could issue after the Education Bill is enacted.

We would wish any Regulation by the Department to confirm that, where deferral of a primary school place is granted in respect of a child who falls into any of the above categories, that child should have the right to a further one year's state-funded pre-school place.

Ideally we would also like parents of all other children who would not have turned five when they are due to start school (i.e. with birthdays between October and April) to have the right to apply for a one year deferral of their child's place, and to have the right to a state-funded pre-school place, where there are sufficient places.

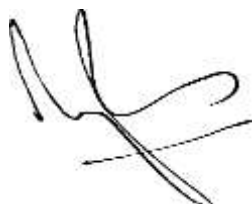
For the information of the Committee, I have enclosed a briefing paper which sets out our case in greater detail, including supporting evidence and information. This includes information, elicited by the Committee, on the relatively high proportion of 'young for year' children referred to the Educational Psychology Service in Northern Ireland.

We hope the Committee will be good enough to take the time to consider our request. We would be happy to brief the Committee once more on this important issue, if this was judged helpful.

Yours sincerely,



**Dr Liz Fawcett**  
Northern Ireland representative,  
ParentsOutloud



**Mark Langhammer**  
Northern Ireland Director,  
Association of Teachers and Lecturers

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<sup>1</sup> The wording of the Act is available at: <http://www.legislation.gov.uk/nisi/1986/594>