



## **BHA Response to the Education and Adoption Bill Public Bill Committee**

### **01 July 2015**

#### **About the British Humanist Association**

1. The British Humanist Association (BHA) is the national charity working on behalf of non-religious people who seek to live ethical and fulfilling lives on the basis of reason and humanity. It is the largest organisation in the UK campaigning for an end to religious privilege and to discrimination based on religion or belief, and for a secular state.
2. The BHA has a long history of contributing towards and improving state education. We provide materials and advice to parents, governors, students, teachers and academics. We also work closely with others on wider equalities issues in a range of forums. The BHA is a member of the National Children's Bureau Sex Education Forum (SEF), the Children's Rights Alliance for England (CRAE), Rights of the Child UK (ROCK) and the Religious Education Council for England and Wales.

#### **Summary of response**

3. We are concerned that this Bill may affect a large increase in the number of 'faith ethos' Academies in England, with or without local communities' knowledge, input or support. We believe that the Bill should contain provision for parents or local communities to be consulted with about the identity of the academy sponsor and a full record of which schools have a 'faith ethos' should be kept by the government and made readily available to the public.
4. Beyond that, we believe that powers currently afforded to 'faith ethos' schools be removed and reserved only for academies formally designated or registered with a religious character. This would have the effect of removing the category of 'faith ethos' schools altogether, bringing the academy system in line with the maintained sector.

#### **'Faith ethos' Academies**

5. The BHA has had long-standing concerns regarding the status of 'faith ethos' Academies and Free Schools. These are Academies and Free Schools that are not legally registered as having a religious character, but nonetheless are run by an organisation with a religious ethos. As such, they are entitled to exert control over some aspects of governance, employment and curriculum at the school on the basis of their religion.
6. In the maintained sector, a school that wishes to set their admissions arrangements, employ staff, appoint governors or set aspects of their curriculum on the basis of their religion, must be formally designated as having a religious character.<sup>i</sup> It is also the case that Academies and Free Schools, if they wish to have the fullest available control in these areas, must also be formally registered or designated.<sup>ii</sup>
7. However, as all Academies and Free Schools enjoy a large number of freedoms, faith groups that do not formally register their schools as having a religious character are still afforded significant control over the school. These 'faith ethos' schools may religiously select all

governors; use a religious genuine occupational requirement in appointing senior staff<sup>iii</sup>; and also put a religious slant on some aspects of the curriculum, such as sex and relationships education (SRE).<sup>iv</sup>

8. Importantly, an Academy can gain or lose a 'faith ethos' at any time simply through a change in ownership or, in converting, by way of the trust that sponsors it having a religious character. There are two issues with this.
9. Firstly, the government does not record the 'faith ethos' of academies. As of 2012, the government now records which Free School applications will have a 'faith ethos',<sup>v</sup> but the same was not true prior to 2012 and is not true of academies that were formerly maintained schools.<sup>vi</sup> It is unclear, therefore, whether the government knows which schools are which on this score and it is certainly not known to the public. If a parent is to make informed choices about the schooling of their child, it seems only right that they should know whether a school has a particular religious character or not.
10. The second issue is that an Academy can gain a 'faith ethos', with all the powers that entails, without any discussion or consultation with the local community. There is a degree to which the Bill may be seen to address this problem by proposing to require consultation about the identity of the Academy sponsor (though not on the conversion itself) for schools that are 'eligible for intervention'. As outlined in Section 9 of the Bill, this consultation must include trustees of the school and the person or persons by whom the foundation governors are appointed (and in the case of a school with a religious character, the appropriate religious body).
11. However, the Bill will not require consultation with the local community – that is, parents with children already at the school, those with children at feeder schools, those with children at other potentially affected schools in the area, etc. There is also no requirement to consult with teachers.
12. Whilst we recognise the Government's desire to 'streamline' the conversion process, we are concerned that limiting the requirements for consultation in this way fails to provide an adequate safeguard against a school acquiring a 'faith ethos' against the wishes of parents and the wider local community.
13. By way of example, in 2011 Tudor Grange Academy, a secondary school without a religious character in Solihull, was approached by the Diocese of Birmingham to sponsor a failing Church of England primary school that was being forced by the Government to convert to an Academy. The Executive Principal of the secondary school, Jennifer Bexon-Smith (now the Regional Schools Commissioner for West Midlands), welcomed the approach and sought to enter a formal association with the Diocese. The affiliation agreement included commitments by the school to 'seek to celebrate and acknowledge the importance of spirituality and faith to our school life', and to 'acknowledge the affiliation with the Diocesan Board of Education in material produced and published by the school'. To be clear, Tudor Grange is a school with no religious character and this affiliation was not consulted upon.
14. In 2013, Tudor Grange put forward plans to alter its admissions criteria in order to give priority to children attending two religiously selective Church of England Primary schools, one of which was the school it took over sponsorship of as outlined above. In effect, these changes proposed to make a school without a religious character religiously selective. Incidentally, it was revealed during this process that Mrs Bexon-Smith was also a trustee of

the Diocese of Birmingham Educational Trust, whose objects include ‘establishing and maintaining Academies (primarily but not exclusively Church of England Academies) under the direction of the Diocesan Board of Education’.<sup>vii</sup>

15. Regrettably, the provisions in this Bill do little to allay concerns about arrangements like this becoming prevalent. Section 10 of the Bill confers upon the governing body of the school (as well as the local authority) the duty to take all reasonable steps to facilitate conversion. In light of this duty, it seems fair to suggest that the governing body of the school will be predisposed towards support for entering into arrangements with sponsors who are either able to put themselves forward quickly or who have the existing structure to expedite the conversion process.
16. As you will be aware, the Church of England and the Catholic Church are, by some distance, the largest and oldest providers of schools aside from local authorities, and they thus tend to be in the strongest position to sponsor schools that have been ordered to convert. It does not seem unreasonable to suggest, therefore, that the provisions in this Bill may well lead to a significant increase in the number of schools with no religious character which, with no input (or even support) from the local area, convert to become ‘faith ethos’ academies.
17. At a minimum, there should be clarity as to which schools have a ‘faith ethos’, presented in a coherent and easily accessible manner. Not simply so that parents can be fully informed about their local schools, but also so that the Department for Education has an accurate picture with which it can plan accordingly.
18. We also believe that the inclusion of a provision to require consultation with the local community would mitigate the possibility of ‘faith’ schools being located in communities that do not want them or to which they are not suited. Or, indeed, of children returning to their school after the holidays to find that it now possesses a distinct ‘faith ethos’.
19. Further, we believe the Bill represents an opportunity to remove the ‘faith ethos’ category altogether, leaving only designated or registered religious schools as is the case in the maintained sector. To achieve this, we would recommend that the Government prevents providers/sponsors that are not designated or registered from using genuine occupation requirement in employment, appointing governors on faith grounds or being part of a religious academy chain.

**For more details, information and evidence, contact the British Humanist Association:**

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<sup>i</sup> For religious designation of maintained schools, section 5 of *The Religious Character of Schools (Designation Procedure) Regulations 1998* – <http://www.legislation.gov.uk/uksi/1999/2432/made>

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<sup>ii</sup> For religious designation of Academies and Free Schools see [section 124B of the School Standards and Framework Act 1998](#) or (if the Academy is a converter faith school) see [section 6\(8\) of the Academies Act 2010](#).

<sup>iii</sup> In January 2012 Julian Huppert MP asked a parliamentary question to confirming this is possible; see the last paragraph of Schools Minister Nick Gibb's answer at <http://www.theyworkforyou.com/wrans/?id=2012-01-23a.90376.h>

<sup>iv</sup> Freedom of the curriculum depends on what the Department for Education are willing to agree to when negotiating a funding agreement. For RE and collective worship, the rules in the model funding agreement are the same as those for maintained schools, i.e. RE must be religiously neutral, and collective worship must be Christian. For PSHE and SRE, there is very little that is required, so schools can teach what they like. For other curriculum subjects, it depends upon what the government considers 'broad and balanced', and what Ofsted would be happy with when inspecting a school. The relatively recent requirement that Academy Trusts are precluded from 'the teaching, as an evidence-based view or theory, of any view or theory that is contrary to established scientific and/or historical evidence and explanations' is another limit.

<sup>v</sup> As of 2012, the mainstream free school application form asked first, 'Do you intend that your proposed school will be designated as having a religious character?' and then, 'Do you intend your proposed school to have a faith ethos (but will not be designated as having a religious character)?'

<http://media.education.gov.uk/assets/files/pdf/a/application%20form%20-%20mainstream.doc>

<sup>vi</sup> In January 2012 the BHA submitted a Freedom of Information request to the Department for Education asking them if they knew which schools have a 'faith ethos', and if so, to list them. The department replied saying that they did not know. See <https://humanism.org.uk/2012/04/18/news-1022/>

<sup>vii</sup> For full details, see 'Non-religious Academy in Solihull decides to religiously select in admissions': <https://humanism.org.uk/2013/04/15/non-religious-academy-in-solihull-decides-to-religiously-select-in-admissions/>