

Education Committee: Purpose and quality of education in England

Response of the British Humanist Association



04 February 2016

About us

1. The British Humanist Association 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. We promote Humanism, support and represent the non-religious, and promote a secular state and equal treatment in law and policy of everyone, regardless of religion or belief. Founded in 1896, we have around 30,000 members and supporters, and over 70 local and special interest affiliates.
2. The BHA has a long history of work in education, children's rights and equality, with expertise in the 'religion or belief' strand. We have been involved in policy development around the school and the curriculum for over 60 years. We also provide materials and advice to parents, governors, students, teachers and academics, for example through <http://www.humanismforschools.org.uk/>, and our school volunteers programme. We have made detailed responses to all recent reviews of the school curriculum, and submit memoranda of evidence to parliamentary select committees on a range of education issues.
3. The BHA is an active member of many organisations working in education, including the Religious Education Council for England and Wales (REC), National Children's Bureau Sex Education Forum (SEF), the PSHE Association, the Children's Rights Alliance for England (CRAE) and Rights of the Child UK (ROCK).
4. Our primary interests in education relate to issues surrounding state-funded religious schools ('faith' schools), curriculum (in particular RE, PSHE/SRE, citizenship, and science), and collective worship/school assemblies.

Summary

5. We believe that the most appropriate way to identify the purposes of education is to look to the rights afforded to children, and the best way to measure the quality of education is to assess the degree to which these rights are being realised.
6. Taking this rights-based approach, this submission focuses on what we consider to be three of the most fundamental purposes of education today, and examines how effectively the education system currently fulfils them:
 - Encouraging and enabling children to think critically and for themselves
 - Ensuring children's health and wellbeing
 - Promoting understanding of and respect for other cultures, religions, beliefs, and traditions

Introduction – using a rights-based approach to identify the purposes of education

7. The Office of the Children’s Commissioner for England (OCC) have previously advocated a ‘rights-based’ approach to education which, in its essence, sees the purposes of education as largely springing from the need to uphold the rights of children.¹ Whilst there may well be purposes for education which go beyond the simple need to uphold children’s rights, we believe the rights-based approach is best placed to ensure that, at the very least, a minimum standard of education is achieved.
8. The benefit of this approach, as far as attempting to establish the basic purposes of education goes, is that the rights that children must be afforded are already clearly set out in a variety of existing pieces of legislation, as well as a number of international treaties.
9. The United Nations Convention on the Rights of the Child (UNCRC), while not incorporated into UK law, is nonetheless a binding international treaty, and by ratifying it in 1991, the UK Government committed itself to upholding the rights contained within it. Further, the rights enshrined in the European Convention on Human Rights (ECHR) are, of course, incorporated into domestic law through the Human Rights Act 1998, and the articles of the Universal Declaration of Human Rights (UDHR), largely covered by those in the ECHR, also has force. A number of protections and minimum entitlements are also found in the Equality Act 2010.
10. The need to uphold these rights is already reflected in a variety of legal obligations placed on schools, detailed in what follows, which have the effect of representing what might be seen as pre-existing, statutory purposes for education – although we also believe that the UNCRC should be incorporated directly into UK law as this would significantly strengthen children’s rights.
11. The further benefit of the rights-based approach is that it provides an easy means of measuring the quality of education against its purposes. Regrettably, as we outline below, it is clear that a number of children’s rights are not sufficiently upheld by schools and, in some cases, children are explicitly obstructed from enjoying them by both the way they are taught and the way in which the education system is constituted. It is therefore not difficult to identify where improvements need to be made.

Ensuring children’s health and wellbeing

12. In our view, education should, at the very least, ensure and promote the health and well-being of children. This goes well beyond the simple duty of schools to ensure that their pupils are safe, but rather entails a positive duty on schools and other educational settings to equip children with accurate information and knowledge on how to stay healthy.
13. Article 19 of the UNCRC is explicit in identifying this as a key purpose of a child’s education, placing on States Parties an obligation to take appropriate ‘education measures to protect the child from all forms of physical or mental violence, injury or abuse...maltreatment or exploitation, including sexual abuse.’ Article 17 is also clear on this point in setting out the duty of States Parties to ‘ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.’

¹ *A rights-based approach to education*, Office of the Children’s Commissioner, 2014: <https://www.childrenscommissioner.gov.uk/sites/default/files/publications/rights%20based%20approach%20good%20education%20system.pdf>

14. In light of this, we believe that the provision of personal, social, and health education (PSHE), including sex and relationships education (SRE), is vital if this purpose is to be fulfilled. All the evidence shows that good-quality, age-appropriate PSHE leads to the best outcomes in terms of child abuse, sexual health, consent, teenage pregnancy, domestic violence, and homophobic and transphobic bullying, and our position is that introducing compulsory and comprehensive PSHE, including SRE, in all schools (primary and secondary) is the best way for schools to ensure the health and wellbeing of their pupils.² As the committee is aware, this is not only their position, but the position of the UN Special Rapporteur on the Rights of the Child, the Children's Commissioner for England, the Home Affairs Committee, the Joint Committee on Human Rights, the Chief Medical Officer,³ and a wide coalition of charities and NGOs, as expressed in last year's Civil Society report to the UN Committee on the Rights of the Child.⁴
15. Of course, some minimal SRE is already compulsory in schools, though beyond the relevant aspects of the science curriculum, this is limited to teaching about STIs, HIV and AIDS in maintained secondary schools – teaching from which parents have the right to opt their children out. Some schools do provide PSHE/SRE beyond this minimum level, which is to be welcomed, but the two previous subject-specific reports produced by Ofsted on PSHE, in 2010⁵ and 2013,⁶ revealed that such provision was both patchy across the country and not of an adequate standard to meet the needs of children. The current arrangements are therefore evidently not sufficient, and if education is to meet the basic purpose of ensuring health and well-being, the provision of PSHE and SRE needs be drastically improved.

Understanding of and respect for other cultures, religions, beliefs, and traditions

16. The need to ensure the wellbeing of pupils is also recognised in the duty placed on schools to promote the social, moral, spiritual and cultural (SMSC) development of pupils. Importantly, however, the SMSC duty goes further than this, variously requiring schools to encourage: 'further tolerance and harmony between different cultural traditions by enabling students to acquire an appreciation of and respect for their own and other cultures'; 'respect for other people'; and 'an acceptance that other people having different faiths or beliefs to oneself (or having none) should be accepted and tolerated, and should not be the cause of prejudicial or discriminatory behaviour.'⁷ Similarly, Article 29 of the UNCRC states that education should be directed to 'the preparation of the child for a responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and

² The evidence on the benefits of providing sex and relationships education in schools has been neatly gathered in a briefing published by the Sex Education Forum in 2015, *SRE – the evidence*: <http://www.sexeducationforum.org.uk/media/28306/SRE-the-evidence-March-2015.pdf>

³ 'Chairs of four parliamentary select committees write to Education Secretary demanding statutory PSHE and SRE', BHA, July 2015: <https://humanism.org.uk/2016/01/08/chairs-four-parliamentary-select-committees-write-education-secretary-demanding-statutory-pshe-sre/>

⁴ *UK implementation of the UN Convention on the Rights of the Child: Civil society alternative report 2015 to the UN Committee – England*: http://www.crae.org.uk/media/78665/crae_civil_society_report_to_un_web.pdf

⁵ *Personal, social, health and economic education in schools*, Ofsted, 2010: www.ofsted.gov.uk/resources/090222

⁶ *Not yet good enough: personal, social, health and economic education in schools*, Ofsted, 2013: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/413178/Not_yet_good_enough_personal_social_health_and_economic_education_in_schools.pdf

⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380595/SMSC_Guidance_Maintained_Schools.pdf

friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin’.

17. These are clearly all important purposes for education, and it is proper for the overarching SMSC duty to be enshrined in law. However, we believe that the variable ability of schools with a religious character, which account for 34% of all state-funded schools in England, to discriminate in their admissions and employment on the grounds of religion, as well as their ability to set a narrow, faith-based religious education curriculum, is fundamentally at odds with this duty and significantly detracts from the education system’s ability to meet it.
18. ‘Mutual respect and tolerance of those with different faiths and beliefs’ cannot be achieved without some level of mutual understanding too, and both the curriculum and diversity of intake at a large number of ‘faith’ schools, and particularly religiously-selective schools, which account for 16% of all state school places, does not adequately support or promote that understanding.
19. By way of an example, the Cattle Report, commissioned by the Home Office following the racially-motivated riots of summer 2001, explicitly noted that riots had not broken out in diverse areas where pupils went to school with children from different religions and cultures, and learnt about their beliefs.⁸ The report expressed concern that some schools were ‘operating discriminatory policies where religious affiliations protect cultural and ethnic divisions’, and at the launch of the 2009 follow-up to the report, Professor Ted Cattle repeated that ‘faith’ schools were ‘automatically a source of division which have to be overcome’.⁹
20. Research has consistently shown that more religiously and ethnically diverse classrooms produce more tolerant students and reduce prejudice,¹⁰ and recent, half-hearted proposals suggested by the Government such as shared facilities and integrated teaching between schools are not sufficient in tackling this problem.¹¹
21. Given our increasingly diverse society, we believe that state-funded schools should be open to children from all religious and non-religious backgrounds, so that children are better able to form relationships that cross cultural divides and become better able to understand and respect those with different beliefs. For the same reasons, all schools should have to teach a broad, objective, and inclusive RE syllabus that encourages pupils to learn about and respect the beliefs of others, whether they are religious or not.

⁸ Cattle, Ted et al, *Community Cohesion: A Report by the Independent Review Team chaired by Ted Cattle* (Home Office, 7 December 2001): <http://image.guardian.co.uk/sys-files/Guardian/documents/2001/12/11/communitycohesionreport.pdf>

⁹ Moseley, Tom, *Cattle report: Blackburn a divided town* (Lancashire Telegraph, 8 May 2009): http://www.lancashiretelegraph.co.uk/news/4351852.Cattle_report_Blackburn_a_divided_town/

¹⁰ See: Janmaat, Germ (2015), ‘Do ethnically mixed classrooms promote inclusive attitudes towards immigrants everywhere? A study among native adolescents in 14 countries’: <http://eprints.ioe.ac.uk/21124/>; Bagci, Rutland, Kumashiro, Smith, and Blumberg: ‘Are minority status children’s cross-ethnic friendships beneficial in a multiethnic context?’ <http://onlinelibrary.wiley.com/doi/10.1111/bjdp.12028/abstract;jsessionid=F7D2E9268E1233DAF9AB578D91B4967C.f02t01>

¹¹ Speech on ‘Extremism’ given by the Prime Minister in Birmingham, 20 July 2015: <https://www.gov.uk/government/speeches/extremism-pm-speech>

Encouraging and enabling children to think critically and for themselves

22. A broad and balanced RE curriculum is also demanded by another principal purpose of education, which is to ensure that children are able to think critically, think for themselves, and form their own opinions on a wide range of subjects. This purpose is directly addressed by the right set out in Article 10 of the Human Rights Act 1998 which says that ‘Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers’. The right is further enshrined, almost verbatim, in both Article 19 of the UDHR and Article 13 of the UNCRC, as well as in Article 12 of the UNCRC, which says that States Parties ‘shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child’.
23. It is obvious to us, therefore, as it should be to anyone, that an RE curriculum which is taught from a faith-based perspective to children, and which largely or wholly excludes study of other religious or non-religious beliefs, fails to uphold these rights and fails to fulfil the purposes for education they entail. Indeed, we would suggest that denying children the opportunity to make their own minds up about important issues of religion, morality, meaning, and purpose, through such a narrow curriculum and in a state-funded school, very clearly amounts to ‘interference’ in the freedom to hold opinions and receive information which is proscribed by Article 10 of the HRA.
24. State-funded schools designated with a religious character should be no less obliged to uphold this right than a school without a religious designation, and we therefore see the exemptions in the Equality Act 2010, which allow state-funded religious schools to teach RE from a faith-based perspective,¹² as unjustified and an infringement on the rights of the children who attend them.
25. Whilst accepting that parents have the right, set out in Article 2 of the First Protocol of the ECHR, to bring up their children in line with their own philosophical and religious convictions, the rights of children outlined above cannot simply be ignored as a result, and the UNCRC specifically seeks to cater for this tension by adding to Article 12 the caveat that the views of the child be given ‘due weight in accordance with the age and maturity of the child’. Regrettably, current arrangements in English schools fall well short of upholding this particular aspect of Article 12, and also fail to reflect ECHR case law around Gillick competence, which establishes that once a child obtains sufficient understanding and intelligence to be mature enough to make up their own mind on the matter, a child’s right to make their own decisions overrides their parents’ rights over them.
26. The rights to opt out of or make alternative arrangements for RE, for instance, which are intended to act as a compromise in the face of schools’ ability to teach a faith-based curriculum, lie only with parents, giving Gillick-competent children and young people no say over the type of RE they receive, and effectively leaving them powerless in the face of what may very well be narrow and doctrinaire teaching. It’s also worth noting that children are able to opt out of collective worship in schools at the age of 16, and given that the justifications for this logically apply just as much to RE as they do to collective worship, this seems a bizarre inconsistency. In our view, however, even allowing for an opt out at 16 does not give adequate scope for children’s Gillick competence rights to be fully realised. The age at which a child will reach sufficient maturity to make their own decisions will vary from child to child, but it is certain that almost all will have done so long before the age of 16.

¹² Schedule 11, Part 2, Equality Act 2010: <http://www.legislation.gov.uk/ukpga/2010/15/schedule/11>

27. We therefore believe that in order for the rights of children to be upheld and for the education system to fulfil its purpose of ensuring that children are free and able to hold their own opinions, the age of opt out needs to be lowered, if indeed there is to be a firm age at all, which the BHA does not believe there should be. This position has been repeatedly endorsed by the Joint Committee on Human Rights (JCHR), for example in reports in 2006,¹³ 2008,¹⁴ and 2010.¹⁵

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¹³ paragraphs 2.1-2.6: <http://www.publications.parliament.uk/pa/jt200506/jtselect/jtrights/241/241.pdf>

¹⁴ paragraphs 1.40-1.45: <http://www.publications.parliament.uk/pa/jt200708/jtselect/jtrights/107/107.pdf>

¹⁵ paragraphs 1.30-1.40: <http://www.publications.parliament.uk/pa/jt200910/jtselect/jtrights/57/57.pdf>