

WELSH GOVERNMENT: ADVANCING EQUALITY AND HUMAN RIGHTS IN WALES

Consultation response from
Wales Humanists, August 2020

ABOUT WALES HUMANISTS

Wales Humanists is part of Humanists UK. At Humanists UK, we want a tolerant world where rational thinking and kindness prevail. We work to support lasting change for a better society, championing ideas for the one life we have. Our work helps people be happier and more fulfilled, and by bringing non-religious people together we help them develop their own views and an understanding of the world around them. Founded in 1896, we are trusted to promote humanism by over 85,000 members and supporters and over 100 members of the All Party Parliamentary Humanist Group. Through our ceremonies, pastoral support, education services, and campaigning work, we advance free thinking and freedom of choice so everyone can live in a fair and equal society.

WALES HUMANISTS' PRIORITIES FOR HUMAN RIGHTS AND EQUALITY IN WALES

- **Include Wales Humanists on a renamed Faith Communities Forum**

Presently, the Faith Communities Forum, which was established in 2001 to help improve relations between the major faith community groups in Wales, excludes the non-religious. The group, as well as having biannual access to the First Minister, is frequently called on by the Assembly to represent communities across Wales, most recently concerning hate crimes. The exclusion of Wales Humanists from all this is discrimination. Wales Humanists should be granted equal access to sit on the Faith Communities Forum alongside our religious counterparts, to directly represent the interests of humanists and the non-religious to the First Minister. The Forum should be renamed to be inclusive, e.g. to the Faith and Belief Communities Forum or Belief Communities Forum.

- **Introduce inclusive assemblies to schools to replace collective worship**

We believe that all children should have access to high quality, inclusive assemblies which are educational, enjoyable, and appropriate for young people from all backgrounds. These assemblies should not be acts of collective worship nor seek to promote one particular religion or belief, but be inclusive and accessible for all pupils, regardless of their religion or belief.

In requiring all state schools, including those without a religious character, to conduct daily acts of collective worship that are 'of a broadly Christian character', the law discriminates in favour of religion, in general, and Christianity in particular, effectively denying those who identify as non-religious – 58% of the Welsh population according to the latest British Social Attitudes Survey¹ – and those with minority faiths access to school assemblies that are relevant to them. It also violates the right to freedom of religion or belief of children, young people, and their families by imposing a particular religious perspective upon them, flying in the face of the United Nations Convention on the Rights of the Child (UNCRC) and A2P1 of the European Convention on Human Rights. Indeed, in 2016, the UN Committee on the

¹ Humanists UK, *Latest British Social Attitudes Survey shows Church of England hit record low*, 2018
<https://humanism.org.uk/2018/09/07/latest-british-social-attitudes-survey-shows-church-of-england-hit-record-low/>



Rights of the Child's Concluding Observations expressed concern about the law requiring compulsory worship and explicitly recommended it be repealed.²

Parents have the right to withdraw their children from collective worship, and sixth-form students are permitted to withdraw themselves from the practice. But in most cases, no educationally meaningful alternative is provided. What's more, many parents and older pupils are simply unaware of this right, or, if they are aware of it, attend schools that make it difficult to exercise or leave children segregated, missing out on other important aspects of school assemblies. In short, the right to withdraw is insufficient to protect those who do not hold Christian beliefs – or indeed younger children who have yet to make up their own minds about what they believe – from religious proselytisation or indoctrination. For this reason, we call upon the Welsh Government to abolish the requirement to hold collective worship and replace it with a duty to provide inclusive assemblies designed to support the spiritual, moral, social, and cultural development of all pupils irrespective of background or belief.

- **The right to withdraw from Religious Education**

We were pleased to learn that, in the context of VA schools, the Welsh Government intends to replace the right to withdraw from faith-based Religion, Values, and Ethics with a parental right to demand a more inclusive, pluralistic version of the subject that will be taught in line with the locally agreed syllabus taught in other schools.

Of course, the extent to which this policy successfully respects the human rights of families who do not share the faith of the school their child attends – or protects the varying philosophical convictions of pupils attending schools without a religious character where the subject is still not always taught objectively – will depend on the delivery at the school level. For this reason, it is vital that the bodies that produce and oversee the syllabus (ASCs and SACREs) and all teachers, particularly those who teach RVE in denominational schools, understand the difference between objective, critical, objective RVE and that taught from a faith perspective. They must also be made aware of the legal ramifications of failing to take this difference seriously. For this reason, we think the Welsh Government should consider publishing guidance on this issue.

Further, because children and young people will be dependent on their parents to opt them into agreed syllabus RVE, the current proposals don't fully respect the rights of children to freedom of religion or belief that are protected under the UNCRC. With this in mind, the Welsh Government should Grant older pupils in faith schools (year 10 and 11) the power to opt-in to non-partisan RVE taught according to the agreed syllabus. This will help to bring the legal framework underpinning the subject into line with the case law on *Gillick*

² Humanists UK, 'UN Children's Rights Committee calls for end to compulsory worship in UK schools', 2016 <<https://humanism.org.uk/2016/06/09/un-childrens-rights-committee-calls-for-end-to-compulsory-worship-in-uk-schools/>> [accessed 11 August 2020].



*competence*³ – whereby a child or young person who has ‘sufficient maturity’ is empowered to make self-regarding decisions.

- **Religious discrimination in school admissions and employment**

State schools with a religious character should not be allowed to use discriminatory admissions policies that select pupils based on their parents’ faith. State schools are public institutions and should, therefore, be open to all irrespective of belief or background. Further, we do not believe that state schools should be free to recruit all teachers or other staff based on their religion, particularly where this goes beyond a genuine occupational requirement (GOR). On the latter, there is a mis-transposition into UK law of the European Employment Directive, and we know this is something the Equality and Human Rights Commission (EHRC) has taken an interest in in the past. We call on the Welsh Government to support an end to religious selection and unfair religious recruitment practices in faith schools.

- **Fully inclusive, compulsory relationships and sexuality education (RSE)**

We strongly support the introduction of developmentally-appropriate, rights-based relationships and sexuality education as a compulsory subject for all pupils aged 3-16 in the new curriculum for Wales. Given the key role this subject plays in the health and wellbeing of children and young people we also support the decision, following the ‘Ensuring access to the full curriculum’ consultation, to abolish the parental right to withdraw children from sex education. It is now vital that the guidance on this new subject is developed together with experts to ensure a detailed, objective, and fully LGBT-inclusive RSE curriculum can be delivered for all children in every Welsh school, including faith schools.

- **Employment in chaplaincy/pastoral support teams**

We campaign for an end to unlawful religious discrimination in publicly funded posts such as pastoral support jobs in hospitals, the armed forces, universities, and prisons, which are often unfairly reserved only for religious people or for people of certain religions. We call upon the Welsh Government to support NHS Wales adopting fully inclusive guidance on the need for spiritual, pastoral and religious care in the NHS, similar to the guidelines that were produced by NHS England in 2015.⁴ Welsh health boards spent £1.2 million on chaplaincy in 2017, with 100% going to Christian chaplains and none for supporting non-religious or minority faith patients (figures obtained from freedom of information requests to each health board). A report by Marie Curie in 2018, welcomed by the Health Minister Vaughan

³ *Gillick v West Norfolk and Wisbech AHA* [1985] UKHL 7 (17 October 1985) <<https://www.bailii.org/uk/cases/U/KHL/1985/7.html>> [accessed 13 July 2020].

⁴ NHS England, *NHS Chaplaincy Guidelines 2015: Promoting Excellence in Pastoral, Spiritual & Religious Care*, <https://www.england.nhs.uk/wp-content/uploads/2015/03/nhs-chaplaincy-guidelines-2015.pdf>



Gething, established the need for specific non-religious pastoral support, but there is yet to be action on this in NHS Wales.⁵

Consultation questions

1. What are the key challenges for equality and human rights in Wales?

Discrimination against the non-religious in the Faith Communities Forum

At present, the Welsh Government's Faith Communities Forum does not permit humanists as members. Wales Humanists recently met with the Government to raise this issue, however, we have been told our ask for a review of the membership is ongoing but is subject to consultation with faith groups. Fundamentally, the aim of this forum is to improve inter-belief relations. Social cohesion cannot be meaningful without engaging the majority of the population who are non-religious. Including a non-religious.

We do not agree that there should be a consultation on our membership but instead think we should be granted access as the Welsh Government itself has interpreted the rights of the non-religious to be analogous to the rights of those who are religious. To this effect, Kirsty Williams AM, Secretary for Education, stated the following:

'It is the view of the Welsh Government that: to ensure compatibility with the Human Rights Act 1998 the provisions relating to the constitution of SACRES and ASCs in the 1996 Act are to be interpreted as permitting the appointment of persons who represent holders of non-religious beliefs in the same way as they permit the appointment of persons who represent holders of religious beliefs; (section 390(4)(a) of, and paragraph 4(2)(1) of Schedule 31 to, the 1996 Act). However, we consider the non-religious beliefs adhered to by the person to be appointed must be analogous to a religious belief, such as humanism. To be "analogous" we consider the non-religious beliefs must in accordance with case law under the European Convention of Human Rights and the Human Rights Act 1998 attain the necessary level of cogency, seriousness, cohesion and importance to attract protection under the Convention Rights'⁶

Further, case law has established that religious and non-religious beliefs are not to be distinguished and should be awarded 'equal respect' and 'equal treatment' (e.g. *R (Fox) -v- Secretary of State for*

⁵ Marie Curie, *Improving access to palliative care for people with dementia, learning disabilities and people with different or no religious beliefs*

<https://www.mariecurie.org.uk/globalassets/media/documents/how-we-can-help/hospice-care/our-hospices/cardiff-and-the-vale/improving-access-project-full-report-english.pdf>

⁶ Letter from Kirsty Williams AM to Local Authority Directors of Education, 3 May 2018

https://humanism.org.uk/wp-content/uploads/KW_0783_18-en.pdf



Education).⁷ Therefore, humanists should not be distinguished from the religious, and Wales Humanists should be invited to sit on the Faith Communities Forum.

Recommendation: The Welsh Government should appoint Wales Humanists to the Faith Communities Forum and rename the Forum to 'Religion or Belief Communities Forum' or 'Belief Communities Forum' to be fully inclusive of the non-religious.

Collective worship in schools

An issue that needs addressing as a matter of urgency is the legal requirement for all state schools to provide a daily act of collective worship of a broadly Christian character. This policy fundamentally negates the UNCRC requirement to protect freedom of religion or belief and similarly threatens the rights of parents to freedom of conscience, including in the upbringing of their children, enshrined under Articles 9 and Article 2 Protocol 1 European Convention on Human Rights.⁸

The Welsh Government has failed to respond to the Concluding Observations of the UN Committee on the Rights of the Child (2016) which recommended that the Government should '**repeal legal provisions for compulsory attendance at collective worship in publicly funded schools and ensure that children can independently exercise the right to withdraw from religious worship at school**'.⁹ As the Senedd committee on Children, Young People, and Education recently recommended in a report on children's rights in Wales,¹⁰ it is vital for the Welsh Government to draw up a strategic plan on how it will meet the UN recommendations, and this must logically include the steps it will take to abolish compulsory worship.

By requiring daily religious worship that is 'wholly or mainly... Christian' in all state-funded schools, the law effectively imposes a particular faith perspective on all children irrespective of background. The fact that parents may exercise a legal right to withdraw their children from such worship is not sufficient to address the threat this poses to freedom of religion or belief for a number of reasons.

⁷ The case concerned the state's duties in respect of religious education but the principles are identical to those that govern a public authority: 'the state must accord equal respect to different religious convictions, and to non-religious beliefs; it is not entitled to discriminate between religions and beliefs on a qualitative basis; its duties must be performed from a standpoint of neutrality and impartiality as regards the quality and validity of parents' convictions.' – *R (Fox) -v- Secretary of State for Education* [2015] EWHC 3404 (Admin) at paragraph 39:

<https://www.judiciary.gov.uk/wp-content/uploads/2015/11/r-fox-v-ssfe.pdf>

⁸ European Convention on Human Rights https://www.echr.coe.int/Documents/Convention_ENG.pdf

⁹ UN Convention on the Rights of the Child, Committee on the Rights of the Child *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland* (July 2016) <<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhskHOj6VpDS%2F%2FJqg2Jxb9gncnUyUqbnuttBweOlylfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxii3uZ0bjQB0LNTNvQ9fUIEOvA5LtW0GL>>

¹⁰ Welsh Parliament Children, Young People and Education Committee, *Children's rights in Wales*, August 2020. <https://humanism.org.uk/wp-content/uploads/Childrens-Rights-in-Wales-FINAL-e.pdf>



First, because many parents are unaware that this right to withdraw exists they are not in a position to exercise it. Second, because, even when parents attempt to make use of this right, in practice schools do not always honour the request or make it deliberately difficult for the child to be withdrawn. And finally – and most importantly – since, at least until the child or young person reaches the age of 16, pupils are unable to withdraw themselves from worship, their own rights to freedom of religion or belief are treated as identical to that of their parents when this patently isn't the case.

What's more, there is currently no requirement written into Welsh law for schools to provide pupils who have been withdrawn with a meaningful educational alternative to collective worship, so even those who successfully exercise this right are often left isolated in empty classrooms or corridors with little more to do than play on an iPad or read silently until their peers return. This is discriminatory and should be addressed immediately.

The need for a right to withdraw demonstrates that collective worship represents a direct negation of inclusivity. Assemblies where members of the school community come together to learn about one another's beliefs and values, celebrate achievement, and appreciate the diversity of the world around them are a vitally important part of the school day. Since assemblies and worship are often conflated, when children are withdrawn from the latter, they are likely to miss out on the former. Indeed, we are often contacted by parents who, having withdrawn their children from worship, are deeply unhappy that they have been forced to take steps which will also mean that their children are being denied this fundamental part of their education simply because they are not Christian and unable to participate.

The continuation of statutory Christian worship contradicts much of the rationale for the new curriculum, particularly the requirement to ensure that children and young people develop into ethical citizens of Wales and the world. Given that, in other respects, this is likely to be the most inclusive curriculum in the UK, this undermines its purpose and risks diminishing the impact of the important changes this innovative curriculum seeks to make. Here it is worth noting that, despite its relevance to the substance of what is taught in Welsh schools, and the fact that, for pupils, worship is likely to be experienced as a kind of lesson which impacts on spiritual, moral, social, and cultural development, collective worship has been entirely excluded from the consultation on curriculum reforms.

We want to see the current law requiring daily collective worship replaced with a requirement for inclusive school assemblies. In this, we agree with many religious groups, such as the Christian think tank Ekklesia, the British Muslims for Secular Democracy, The General Assembly of Unitarian and Free Christian Churches, and all the major education unions. Such assemblies should explore topics such as happiness, sadness, beauty and the arts; encourage kindness, sharing and creativity; consider life, love, and death; and investigate what it means to be human. These assemblies should delve into different religious and non-religious points of view. But no-one should feel that their own



beliefs are being contradicted and that they are wrong for not sharing the religious views being presented by the teacher. Assemblies for All provides access to free high quality inclusive assemblies for teachers.¹¹

Recommendation: The Welsh Government should remove the requirement for collective worship in all Welsh schools and replace it with fully inclusive assemblies, which do not discriminate and demonstrate respect for children and families from all religion and belief backgrounds.

The right to withdraw from RE

We fully support there being a school curriculum subject that teaches children and young people about religious and humanist perspectives in a 'critical, objective, and pluralistic manner'.¹² On the grounds that religious education (or 'Religion, Values, and Ethics' as the Welsh Government proposes to rename it) plays a vital role in enabling pupils to form and explore their own beliefs and develop an understanding of beliefs and values different from their own, we would very much like to see this subject taught in this way to all pupils in all schools, including those with a religious character (also known as faith schools). We nevertheless think that the plan to give the parents of children attending voluntary aided (VA) faith schools the right to demand an alternative version of the RVE once the right to withdraw the subject has been removed marks a huge step in the right direction.

Since denominational syllabuses will still be set solely by religious bodies and, as is currently the case, these lessons will still be permitted to be taught 'according to the tenets' of a particular faith, this move is vital to ensure the freedom of religion or belief of pupils and their families is protected. In the absence of reforms to the faith-based curriculum, wholesale removal of the right to withdraw would have effectively allowed the state-sanctioned indoctrination of children who attend faith schools, but whose families do not share the religious perspectives of those schools (something which is particularly difficult to avoid in some rural areas), into religious beliefs against their parents' wishes.

Of course, the extent to which the proposed policy successfully respects the human rights of families who do not share the faith of the school their child attends – or indeed protects the varying philosophical convictions of pupils attending schools without a religious character where the subject is still not always taught objectively – will depend on the delivery at school level and means that this is something that will need to be carefully implemented and monitored. The state's duty to 'take care that information or knowledge included in the curriculum is conveyed in a pluralistic

¹¹ Assemblies for All, <https://assembliesforall.org.uk/>

¹² See E.g. *Fox v Secretary of State for Education* (2015) <https://www.judiciary.uk/wp-content/uploads/2015/11/r-fox-v-ssfe.pdf> [accessed 11 November 2019], *Kjeldsen, Busk Madsen and Pedersen v Denmark* (1976). [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-57509%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57509%22]}) [accessed 11 November 2019].



manner¹³ refers not only to **what** is on that curriculum but **how** it is delivered, and may not be satisfied even in cases where the state's overarching aim was not itself one of 'indoctrination'.¹⁴ Indeed, a recent European Court of Human Rights judgment involving conscience-based exemptions from RE in Greece found that it is necessary for states 'in so far as possible, to avoid a situation where pupils face a conflict between the religious education given by the school and the religious or philosophical convictions of their parents'.¹⁵

For this reason, we think that it is imperative that the Welsh Government introduces further measures that ensure that the bodies that produce and oversee the syllabus (known as ASCs and SACREs) and all teachers, particularly those who teach RVE in denominational schools, fully understand the difference between objective, critical, and pluralistic RVE and that taught from a faith perspective. They must also be made aware of the legal ramifications of failing to take this difference seriously and the Welsh Government should consider publishing guidance on this issue. It should also require that a suitable number of 'reserved' teachers in VA schools are trained to teach pluralistic RVE¹⁶ to prevent any violation of rights arising from ignorance in this context.

Here, it is worth mentioning that some religious groups that run schools in Wales are explicitly against making their RE provision fully inclusive. In their initial public response to the proposed changes in the RVE curriculum, the Catholic Education Service even refers to the inclusion of non-religious worldviews in the subject as 'dumbing down'.¹⁷ This does not suggest that non-religious perspectives will be treated with the respect and seriousness necessary to ensure that RVE in Catholic schools is adequately critical, objective, or pluralistic and makes our suggestions about the need for proper implementation and monitoring all the more pressing.

Finally, although the decision to replace the parental right to withdraw with a right to demand inclusive RVE in line with the syllabus goes some way towards protecting the right to freedom of religion or belief of children and young people, the fact that this right lies with parents regardless of the age of the pupil concerned means that the current proposal will not fully respect those rights, particularly in the case of older pupils who, in line with case law on Gillick competence¹⁸, are

¹³ Fox v Secretary of State for Education (2015) paragraph 31, <https://www.judiciary.uk/wp-content/uploads/2015/11/r-fox-v-ssfe.pdf> [accessed 11 November 2019].

¹⁴ Zengin v Turkey (2008) <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-82580%22%5D%7D> [accessed 11 November 2019].

¹⁵ Papageorgio and Others v Greece (2019) <http://hudoc.echr.coe.int/eng?i=001-197254> [accessed 11 November 2019].

¹⁶ One upshot of this, will be that the legal right to recruit, promote, remunerate, or dismiss all faith school teachers on religious grounds should be removed. For further discussion, see below.

¹⁷ Catholic Education Service (2019) <https://www.catholiceducation.org.uk/component/k2/item/1003674-statement-from-the-catholic-education-service-on-the-consultation-to-re-and-rse-in-wales> [accessed 11 November 2019].

¹⁸ Gillick v West Norfolk and Wisbech AHA [1985] UKHL 7 (17 October 1985) <<https://www.bailii.org/uk/cases/UKHL/1985/7.html>> [accessed 13 July 2020].



sufficiently mature to make self-regarding decisions. For this reason, from Year 10 onwards, pupils themselves should be granted the power to request inclusive RVE in-line with the locally agreed syllabus. We note that young people of this age are already granted some autonomy over their education at this stage (e.g. through being given the power to select options for study at GCSE) and that this change would ensure the policy better reflected, not only the Human Rights Act¹⁹ and article 14 of the UN Convention on the Rights of the Child (UNCRC), but also the Rights of Children and Young Persons Measure 2011 which stipulates that 'Welsh Ministers must, when exercising any of their functions, have due regard to the requirements of [the Convention]'.²⁰

Recommendations:

- Ensure that the bodies that produce and oversee the syllabus (ASCs and SACREs), as well as all teachers – particularly those who teach RVE in denominational schools – understand the difference between objective, critical, objective RVE and that taught from a faith perspective and are aware of the legal ramifications of failing to take this difference seriously. Welsh Government to consider publishing guidance on this issue;
- Require that a suitable number of 'reserved' teachers in VA schools are trained to teach pluralistic RVE, and remove the legal provision that allows such teachers to be selected, remunerated, promoted, or dismissed according to faith (see also below);
- Grant older pupils in faith schools (year 10 and 11) the power to opt-in to RVE taught according to the agreed syllabus to fully respect their rights to freedom of religion or belief

Tackling religious discrimination in faith school admissions

The Welsh Government has a duty to promote community cohesion and foster good relations between all groups. We believe that addressing discrimination in the school system, specifically religious selection in admissions policies, is crucial to achieving this aim. The most effective approach to encouraging integration is to facilitate the mixing of children in school. As well as being a simple matter of common sense, this is consistently borne out by the evidence.

In 2017, the UK Department for Education published research that it had commissioned into 'diversity and social cohesion in mixed and segregated secondary schools' in England. The study, which examined the contact between young people from White-British and Asian-British pupils at secondary schools in Oldham, sought to assess the extent to which mixing in school can 'improve both attitudes towards outgroups and intergroup relations.' Researchers found that:

¹⁹ Human Rights Act 1998, Article 9 <<http://www.legislation.gov.uk/ukpga/1998/42/schedule/1>>[accessed 13 July 2020].

²⁰ Rights of Children and Young Persons (Wales) Measure 2011<<http://www.legislation.gov.uk/mwa/2011/2/section/1>> [accessed 14 July 2020].



- 'Attitudes were more positive and... mixing was more frequent in mixed than segregated schools'.
- 'Mixed schools do result in more social mixing between ethnic groups over time, and mixing is reliably associated with more positive views of the outgroup.'
- 'Attitudes of pupils who mix with other backgrounds were more positive compared to those who remain with their own ethnicities.'

In addition, the study examined the outcomes of a merger of two ethnically segregated schools into a single mixed school, finding that 'over a four-year period, intergroup anxiety significantly decreased, and liking and outgroup contact significantly increased for both Asian-British and White British pupils.'²¹

More recently, in May 2018, new research conducted by the University of Bristol and the London School of Economics revealed that schools that are more ethnically diverse lead to greater cohesion between children of different ethnicities. The study of 4,000 Year 10 pupils in 96 English state schools focused on children who are white British, Asian British, and black British. It looked at attitudes towards 'openness', both social and political, as well as asking pupils to rate their feelings of warmth towards those of different backgrounds on a scale from zero to one hundred.

The findings demonstrate that at more diverse schools a higher proportion of pupils express more warmth towards those of other ethnicities. For children of white British ethnicity, for every ten per cent increase in the number of black pupils in their school, their feelings towards them increase by 1.74 points on the scale. Concerning less diverse schools, the report warns that:

'highly segregated school system[s] will generate a lot of pupils with negative orientations towards other groups'

The report concludes that 'the value to researching and implementing policies to encourage integration and contact is therefore clear'.²²

In a similar study published in January 2015, survey data was collected from over 100,000 13 and 14-year-olds in 38 countries to ascertain whether or not more diverse classrooms make pupils more tolerant towards immigrants and those from different backgrounds. The research found that more diverse classrooms produce more tolerant students, and concluded that 'schools should be as inclusive in their admissions policies as possible'. The report also emphasised the need to positively

²¹ DfE, *Diversity and social cohesion in mixed and segregated schools in Oldham*, August 2017: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/634118/Diversity_and_Social_Cohesion_in_Oldham_schools.pdf

²² Centre for Research and Analysis of Migration, *Inter-ethnic relations of teenagers in England's schools: the role of school and neighbourhood ethnic composition*, 2018. http://www.cream-migration.org/publ_uploads/CDP_07_18.pdf



encourage meaningful inter-ethnic contact and friendship within schools and classrooms to ensure that diversity and integration go hand-in-hand.²³

It should be noted, too, that increased diversity within schools is valued by parents. A survey published by NatCen Social Research in May 2018 found that 91% of people in Britain agree that it is either 'very important' or 'quite important' for a good secondary school to have a mix of pupils from different backgrounds.²⁴ And, research published by the Sutton Trust earlier this year found that 80% of parents think state schools should admit pupils from a variety of different backgrounds and a further 76% believe that they should reflect the make-up of the local community.²⁵ This trend in opinion is reflected in the fact that an overwhelming majority of the UK population is opposed to the use of faith-based admissions criteria, which divide children along religious lines (and, by proxy, along ethnic and socio-economic lines too). 80% of the British public supported keeping the 50% cap on religious selection at English free schools when polled in 2017 (including a majority within each religious group),²⁶ and 72% of people oppose any kind of religious selection at all in school admissions.²⁷

In sum, therefore, the evidence is absolutely clear that mixing in schools is vital to promoting integration and social cohesion, just as it is clear that the majority of people support such mixing.

Recommendation: The Welsh Government should withdraw the freedom of state faith schools to religiously select their pupils, and in so doing prioritise the interests of children and society as a whole over the minority opinions of a small and unrepresentative faith school lobby.

Discrimination in faith school employment

The European Employment Directive is mis-transposed into UK law concerning employment in English and Welsh religious schools. Currently, the Equality Act 2010 has an exception written into it (Schedule 22(4)) permitting much wider discrimination based on religion or belief in these settings than just where a genuine occupational requirement (GOR) can be demonstrated. The Directive has no similar exception and quite rightly only allows such discrimination in the case of a GOR.

²³ Germ Janmaat, *Do Ethnically Mixed Classrooms Promote Inclusive Attitudes Towards Immigrants Everywhere? A Study Among Native Adolescents in 14 Countries*, January 2015:
<http://discovery.ucl.ac.uk/10021124/>

²⁴ NatCen Social Research, *Attitudes towards good schools and selective education*, May 2018:
<http://natcen.ac.uk/media/1442622/grammar-school-selective-education-report-final.pdf>

²⁵ Sutton Trust, *Fairer School Admissions*,
<https://www.suttontrust.com/our-research/fairer-school-admissions/>

²⁶ Accord Coalition, *Populus interviewed 2,033 people living in Britain between May 5th to the 7th 2017*:
<http://accordcoalition.org.uk/2017/05/29/overwhelming-majority-of-the-public-want-to-maintain-the-50-religious-selection-cap-for-new-faith-schools/>

²⁷ Accord Coalition, *Faith School Survey 14-16 October 2016*
http://accordcoalition.org.uk/wp-content/uploads/2016/10/0mFaith-Schools_Q2.pdf



From 2010-16 there was a formal investigation by the European Commission into this discrepancy. In private correspondence, as part of this, the UK Government admitted the issue is genuine but said that the courts could be relied upon to interpret the Equality Act correctly in light of the Directive, effectively rendering the exemptions it includes meaningless. That is clearly not an acceptable solution, however, and in light of Brexit, it may soon be the case that the courts cannot be relied upon in this way and the discrepancy in transposition could therefore not be rectified.

The EHRC has called for reform of religious discrimination in a report into religion and belief in the workplace in 2016. Amongst other things, the EHRC concluded that the law around 'faith' school employment in England and Wales, in allowing religious schools to widely discriminate – often against every teacher – based on religion in who they employ, is 'arbitrary' and goes beyond what is permitted by European law. UK law should be reviewed (and hence, possibly, amended) so that religious schools can only discriminate where there is a genuine and legitimate requirement that the occupation has to be filled by someone of a certain faith – for example, for the head of RE in a religious school that teaches faith-based RE.

What's more, as noted above, once the new RVE framework is introduced both VA and VC faith schools will be expected to teach an objective version of the subject in line with the locally agreed syllabus to at least some pupils, making it even less necessary that all members of staff follow a particular faith than is currently the case.

Recommendation: The Welsh Government should repeal this exemption, only allowing schools with a religious character to discriminate in the employment of teaching staff when a GOR can be demonstrated.

Relationships and sexuality education (RSE)

The introduction of compulsory relationships and sexuality education (RSE) for all children aged three to sixteen in 2022 will have a hugely positive impact on the rights and interests of all young people, and particularly for those with a range of protected characteristics, including LGBT pupils, women and girls, and people with disabilities. All the best evidence²⁸ shows that teaching about different types of relationship, including sexual relationships, as well as about consent, sexual health, and the advantages of delaying sex, ensures that young people grow up healthier, happier, and more able to keep themselves, and those around them, safe. RSE also plays a very important safeguarding role which brings it into line with Article 19 of the UNCRC which requires that

'States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse,

²⁸ Sex Education Forum, *SRE: The Evidence* (2015)

<<https://www.sexeducationforum.org.uk/sites/default/files/field/attachment/SRE%20-%20the%20evidence%20-%20March%202015.pdf>> [accessed 19 September 2019]



neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child'.²⁹

For this reason, we think there should be no right for parents to withdraw their children from this vital, fact-based aspect of their education.

We agree with the Government's view that the 'existing legislation around sex and relationships education in Wales is outdated and not fit for the current world in which children and young people exist'.³⁰ It is essential that the legislation is updated to ensure that these children and young people receive a statutory, standardised curriculum which is both inclusive and developmentally appropriate. The introduction of such a curriculum will indeed require a high degree of commitment from teachers and school leaders. However, the risks of not providing this curriculum, particularly to marginalised groups (e.g. LGBTQ people or women and girls) as well as members of insular religious communities where issues (perceived to be) related to sex are treated as taboo, far outweigh the costs of making these changes.

As is evident from the various controversies arising from the introduction of statutory RSE in England,³¹ some groups in Wales may attempt to stymie the introduction of the new RSE curriculum (or any proposal to remove or amend the parental right to withdraw) on religious grounds. This kind of resistance could threaten the potential of the subject to have the necessary impact on the aforementioned rights of children and young people. For this reason, the requirements of the UNCRC, including freedom of religion or belief, and protected characteristics like sex, sexual orientation, and gender identity must be kept front and centre when making policy decisions on the matter. Religious groups of all kinds include individuals with the full range of protected characteristics, and of course, young people frequently decide during the course of their education that they hold a different religion or belief from their parents. It remains to be seen whether the Welsh Government will adequately take this into account when deciding what pupils should learn and whether to ensure that all children, irrespective of background, are given the opportunity to receive factually accurate, non-judgemental RSE as part of their broader education. We think it is essential that they do so.

Recommendation: We believe that LGBT inclusive content should be included in the guidance for this subject and that this content, as well as the subject itself, should become a compulsory part of

²⁹ Convention on the Rights of the Child (1989)

<<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>> [accessed 19 September 2019]

³⁰ *The Future of the Sex and Relationships Education Curriculum in Wales: Recommendations of the Sex and Relationships Education Expert Panel* (2017)

<<https://gov.wales/sites/default/files/publications/2018-03/the-future-of-the-sex-and-relationships-education-curriculum-in-wales.pdf>> [accessed 19 September 2019]

³¹ See, for instance, this petition that was discussed in a recent Westminster Hall debate:

<<https://petition.parliament.uk/petitions/235053>> [accessed 19 September 2019]



the school curriculum.

Religious discrimination in NHS and prison pastoral support roles

We campaign for an end to religious discrimination in publicly funded posts, most notably in the provision of chaplaincy/pastoral support services in the NHS, the prison service, armed forces, and universities. In the past two years, we have challenged a number of NHS Trusts in England who have unlawfully restricted roles to candidates of certain religions.

Humanists UK founded the Non-Religious Pastoral Support Network (NRPSN) in 2015 to train and accredit carers to provide like-minded pastoral support to non-religious people facing difficult life challenges in institutional settings. Currently, almost 20% of prisons and 45% of hospitals in England and Wales have a non-religious pastoral carer in their team, including some paid posts, such as Lindsay van Dijk, who in 2018 was appointed the first humanist to lead an NHS Trust's chaplaincy/pastoral care team.

There is currently not a single non-religious pastoral carer employed by an NHS Trust/Board in Wales, nor any prison. While the 2011 Census recorded 32% of the population of Wales as having no religion, while in 2018 (the most recent year available) the British Social Attitudes Survey records that 57.6% of the adult population in Wales record themselves as having 'No religion', compared to 12.8% Anglican, 2.5% Roman Catholic, 23.9% other Christian denominations, and 3.2% of other religions.³² Using either of these measures, there is a disparity between the needs of the non-religious population and the provision of services provided for them, in an almost exclusively Anglican-led chaplaincy service.

Polling strongly suggests that there is a demand for non-religious pastoral carers. In July 2016 YouGov, on behalf of Humanists UK, polled 4,000 British adults on whether they agreed or disagreed with the following statement: 'Prisons, hospitals and universities which have chaplains should also have a dedicated non-religious pastoral support provider as well'. 69% agreed and just 12% disagreed. Notably, these results remained unchanged when the religions of the respondents were factored in. Both Christians and non-Christian religious respondents agreed with the statement by 66% supportive to 16% opposed.³³

Non-religious patients and prisoners should not be thought of having no belief system or a generic belief system that can be accounted for within a solely religious chaplaincy team. Just as a Muslim prisoner may have spiritual and pastoral needs, such as rituals, discussions, and expressions of their belief system that cannot be accommodated by a non-Muslim chaplain, a non-religious prisoner will have needs that require like-minded support, such as discussion and exploration of

³² British Social Attitudes Survey 2018, <http://www.britsocat.com/>

³³ Humanists UK polling on pastoral care in the UK, 2017.

<https://humanism.org.uk/wp-content/uploads/2017-08-18-RT-Humanists-UK-polling-on-pastoral-care-in-the-UK.pdf>



beliefs about death, bereavement, and approaches to morality.

Recommendation: The Welsh Government should ensure that fully inclusive guidance on pastoral, spiritual, and religious health and wellbeing in Wales is adopted by NHS Wales. A Government-led committee is looking at producing such guidance.

5. Are public authorities fully accountable for equality and human rights in Wales? How could accountability be strengthened?

Human Rights Act and the meaning of 'public authority'

The HRA is essentially a contract between the individual and the state, protecting the individual from abuses by the state, and enshrining certain 'positive' individual rights. In the context of public services, the HRA is of great importance for the protection of the rights of service users. However, only a narrow range of service providers are deemed by British courts to be public authorities, and it is only those with public authority status who are bound by the HRA.

In practice, this means that 'pure' public authorities, such as government departments, the police, NHS Trusts, local authorities, and so on are covered by the HRA – and so service users have recourse to legal action should their human rights be breached by their service provider. However, a feature of contemporary society is the increasing marketisation of public services, with many and varied services, from housing to after-school clubs, from social care services to welfare and employment services, being contracted out to private and third sector providers. This means that increasing numbers of service users are left at a lottery as to whether they are covered by the HRA or not.

A particular feature of the UK Government's policy of contracting out public services is the inclusion of religious – sometimes highly evangelical – organisations as service providers. We think there are real risks that religious service providers, in particular, may wish to infringe on the rights of service users.

Recommendation: The Welsh Government should ensure that all organisations contracted to provide public services on behalf of the state are considered to be 'public authorities' in the context of the Human Rights Act 1998.

There are many other ways in which we wish to see the UK's current human rights and equality settlement strengthened:

Children's rights

While the Human Rights Act 1998 directly incorporates the European Convention on Human Rights (ECHR) into UK domestic law, and the ECHR in practice covers the same rights as the Universal



Declaration of Human Rights (UDHR), there is no similar incorporation of other international human rights treaties into UK law. Of all the other treaties, the UN Convention on the Rights of the Child (UNCRC) is widely regarded as the one that would do the most good in strengthening domestic human rights by direct incorporation. This has been specifically recommended by the UK Parliament's Joint Committee on Human Rights, the Children's Commissioners for England, Scotland, Wales, and Northern Ireland, and the UN Committee on the Rights of the Child, as well as being a step that has already been taken by many other countries already.

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In light of the new law in Wales, in 2020 the Welsh Government was finally able to abolish the legal defence of 'reasonable punishment', banning all forms of physical violence by adults against children. But none of these moves go far enough, as they do not ensure that the rights contained within the UNCRC are directly enforceable.

Ending Equality Act exemptions

During the Equality Act 2010's passage through Parliament, we worked closely with a range of organisations as well as our supporters in Parliament to have amendments made to the Equality Bill which sought to increase protection against discrimination for humanists and others, and to minimise the exceptions from the law granted to religious organisations. Unfortunately, however, the Equality Act contains a number of exceptions to allow religious organisations and individuals to discriminate against others in employment, in the provision of services and in other ways that we consider are unjust and unnecessary. We would like the Welsh Government to pressure the UK Government to repeal these exemptions.

7. To what extent has the pandemic highlighted issues that need to be addressed as part of strengthening equality and human rights in Wales?

One of the most immediate impacts on our community has been the disruption to our services. One of the key ways that people interact with us is through our long-standing offer of Humanist Ceremonies: non-religious weddings, funerals, and baby-namings attended by over a million people each year. Our weddings stopped in all but the most exceptional of web-based 'commitment' ceremonies; our namings stopped; and funerals were significantly impacted, compounding the grief of those worst affected by this crisis.



Looking to the future, one of the major issues the UK are set to face relates to difficulties booking weddings and the impact that this could have on family life.

Marriages

Already humanist couples who have had plans disrupted are reporting extreme difficulty in re-booking weddings for the future (2021 weddings are also booked in advance) and their difficulties are compounded, particularly in England and Wales, by existing inequality in marriage law for humanist couples, who effectively have to have 'two' ceremonies (a humanist wedding plus a short civil ceremony with a registrar) to have be legally married and benefit from a ceremony that reflects their deepest held beliefs and values. By comparison, a Jewish or Christian couple need only have one religious ceremony.

Recommendation: If marriage law was to become a devolved issue, we would like the Welsh Government to support granting raise legal recognition of humanist celebrants, as is currently the case in Scotland, Northern Ireland, and Jersey. In the meantime, the Welsh Government should support the UK Government granting legal recognition.

For more details, information and evidence, contact Humanists UK:

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