

STAKEHOLDER REPORT 2, TO INFORM THE UN COMMITTEE ON THE RIGHTS OF THE CHILD'S EXAMINATION OF THE UK GOVERNMENT IN MAY 2023

As you are aware, the UN Committee on the Rights of the Child issued a *List of Issues Prior to Reporting* [LOIPR] to the UK Government in March 2021. The Government's response to this List forms the basis of its combined 6th and 7th State Party Reports submitted to the Committee on 16th June 2022. [The Report and associated Annexes are available on the OHCHR website under Treaty Body: CRC]

Stakeholders can submit a report to the Committee, identifying key issues to be discussed during the Government's examination by the Committee due to take place in May 2023. CLC has asked Dr Deena Haydon to prepare a *Stakeholder Report* for submission by 15 December 2022. We are keen to ensure that this is an accurate overview of key issues concerning implementation of the UNCRC in Northern Ireland.

Building on an initial *Stakeholder Report* and extensive *Supporting Evidence*, submitted in December 2020 to inform the Committee's List of Issues, it would be helpful if you could use the template provided below to identify any relevant changes and/or developments that have occurred in the last couple of years.

Following collation of the information gathered, you will be sent the final draft of *Stakeholder Report 2* for factual accuracy checking and endorsement in November.

If you have any queries, please contact Claire Kemp: Claire@childrenslawcentre.org

Please return your response to Claire by **Friday 30th September 2022**. Thank you!

CHANGES/ DEVELOPMENTS SINCE DECEMBER 2020

IDENTIFIED BY: Boyd Sleator

ON BEHALF OF: Northern Ireland Humanists

DATE: 30 September 2022

***Supporting Evidence* (2020), Section heading: Education - School segregation by religion continues in NI
Page number: 75, para:3**

Suggested change/ new development:

There is broad agreement that there should be a 'single education system' – indeed, there is currently an independent review taking place to consider the prospects of moving to such a system (Independent Review of Education, 2021, p.1). But education in Northern Ireland remains stubbornly segregated.

According to the most recent figures, just 650 children from Protestant backgrounds attend Catholic maintained primary schools, representing less than

1% of the pupils attending such schools (NISRA/DoE, 2022, p.5). In post-primary schools, the proportion is less than 2% (ibid.) In controlled schools, which have a non-denominational Christian ethos but operate as de facto Protestant schools, only 8% of primary pupils and 5% of secondary pupils come from Catholic backgrounds.

The number of integrated schools is slowly increasing (NISRA/DoE, 2022, p.21). However, it is still the case that only 6% of primary pupils and 16% non-grammar secondary pupils attend integrated schools. This is despite the fact that a recent poll conducted by LucidTalk established that 71% of people in Northern Ireland believe that integrated education should be the main model for education in the country (Bradfield, 2021).

Future growth in the number of integrated schools should be assisted by the implementation of the Integrated Education Act, which received royal assent in April (Integrated Education Act 2022). However, we note that the final version of the Act was considerably weaker than the Bill that was initially put before the Northern Ireland Assembly. Key (weakening) amendments that were accepted during the passage of the Act included:

- removing a duty for the Government to ‘promote’ integrated education, replacing it with a requirement to ‘support’ it instead;
- removing a presumption that all new schools are integrated, saying that education bodies must simply ‘consider integrated education when planning for the establishment of a new school’;
- removing a duty for the Government to aim to ‘increase demand for the provision of integrated education’ so it need only meet existing demand (Humanists UK, 2022a).

The new Act also does nothing to address the exclusively Christian ethos of integrated schools. They, like all other schools in Northern Ireland, are still required to conduct daily collective worship and teach an RE syllabus written by the four main Christian churches. This entirely excludes the teaching of non-religious worldviews like humanism and includes just one unit on non-Christian ‘world religions’ (see boxes on RE and collective worship below). Because of this, non-religious families, as well as those from other faiths, have no choice but to select a school with a Christian ethos, seriously constraining their freedom of religion or belief.

As noted in our stakeholder response in 2020, segregation among pupils is often exacerbated by segregation among teachers and governing bodies. For this reason, we strongly welcome the recent passing of the Fair Employment (School Teachers) Act (Northern Ireland) 2022. It will remove an exemption to equality law that allows schools to employ, promote, and remunerate teachers on the basis of religion or belief, where a genuine occupational requirement cannot be demonstrated. The provisions in the Act come into force on a date specified by the Executive Office. However if the Executive fails to specify a date within two years, the provisions will come into force automatically at that point – which will be 12 May 2024. However, the Act does not address some of the other issues that lead to the segregation among teachers that we referred to in our initial response, such

as the fact that teachers of RE in Catholic schools (including all teachers in Catholic primaries) are required to hold a Certificate in Religious Education that meets criteria laid down by the Irish Catholic Bishops' Conference (see Milliken, 2020).

Evidence (relevant statistics, research, consultation – including author, date of publication, title, publisher, url):

Bradfield, P. (2021) 'Survey: 71% want integrated schools as main NI model' *Newsletter* [online]
<https://www.newsletter.co.uk/education/survey-71-want-integrated-schools-as-main-ni-model-3331789> [accessed 26 September 2022].

Fair Employment (School Teachers) Act (Northern Ireland) 2022
<https://www.legislation.gov.uk/nia/2022/23/contents/enacted> [accessed 26 September 2022]

Humanists UK (2022a), 'Blow to future of education as Northern Ireland Assembly votes to weaken Integrated Education Bill', 20 January 2022 [online]
<https://humanists.uk/2022/01/20/blow-to-future-of-education-as-northern-ireland-as-sembly-votes-to-weaken-integrated-education-bill/> [accessed 26 September 2022].

Independent Review of Education (2021) *Terms of Reference* [online]
<https://www.education-ni.gov.uk/sites/default/files/publications/education/INDEPENDENT%20REVIEW%20OF%20EDUCATION%20-%20REVISED%20DRAFT%20TERMS%20OF%20REFERENCE%20-%20FEBRUARY%202021.pdf> [accessed 26 September 2022].

Integrated Education Act 2022
<https://www.legislation.gov.uk/nia/2022/15/contents/enacted>

Milliken, M (2020) *The Certificate in Religious Education*, Transforming Education, Briefing Paper 4 (March 2020) [online]
https://www.ulster.ac.uk/_data/assets/pdf_file/0009/536553/Briefing-Paper-The-Certificate-in-Religious-Education.pdf [accessed 26 September 2022].

NISRA/DoE (2022) *Annual enrolments at schools and in funded pre-school education in Northern Ireland 2021-22* [online]
<https://www.education-ni.gov.uk/publications/annual-enrolments-schools-and-funded-pre-school-education-northern-ireland-2021-22> [accessed 26 September 2022].

Supporting Evidence (2020), Section heading: Freedom of thought, conscience and religion - Compulsory worship continues in Northern Ireland schools/ No action has been taken to permit pupils to withdraw from compulsory worship
Page number: 26, para:3-4

Suggested change/ new development:

In 2016, the UN Committee recommended that the compulsory requirement for schools to conduct religious worship should be repealed (UNCRC, 2016). But when pressed to 'describe the measures taken to 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 observance at school' in the LOIPR, the State Party report says there are no plans to review this policy (outside of Scotland). This will leave schools in Northern Ireland legally mandated to carry out a daily act of collective worship.

In Northern Ireland, there is no legal requirement that this worship has a distinctly Christian character (unlike in England and Wales). But because of the 'faith-informed' nature of the school system, including the content of the RE curriculum and the faith-based composition of Boards of Governors, this is invariably how the law is understood. Like England and Wales, parents in Northern Ireland retain a legal right to withdraw their children from collective worship. But unlike England and Wales, there is still no right for older pupils to opt themselves out of these sessions, which means that the freedom of religion or belief of children and young people is especially constrained in this context.

Furthermore, by treating Christian worship as the default, the current system illegitimately favours one faith perspective over other religious and non-religious beliefs and presupposes that children will participate in religious activities unless their parents opt out. In a recent case from 2022 known as *JR87*, the High Court in Northern Ireland ruled that this approach is incompatible with Article 2 of the First Protocol of the European Convention on Human Rights (A2P1) and therefore breached the rights of a non-religious father and his child. In this case, the Court found that the right to withdraw was 'not a sufficient answer to the lack of pluralism' in both collective worship and religious education (which is discussed below). This is because 'the need to withdraw a child [is] a manifestation of the lack of pluralism in question' (see also *R(Fox) v Secretary of State for Education* (2015)). It not only 'runs the risk of placing undue burdens on parents', which might mean they are deterred from withdrawing their child in the first place, but also 'of stigmatisation of... children' (*JR87* (2022), para. 122).

Evidence (relevant statistics, research, consultation – including author, date of publication, title, publisher, url):

In the matter of an application by JR87 for Judicial Review [COL11833], para. 122. <https://humanists.uk/wp-content/uploads/COL11833-JR-87-Judgment-dated-05-07-2022.doc.pdf> [accessed 26 September 2022].

R (Fox) -v- Secretary of State for Education [2015] EWHC 3404 <https://www.judiciary.uk/wp-content/uploads/2015/11/r-fox-v-ssf.pdf> [accessed 2 September 2022].

UNCRC (2016). 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) D 35, p. 7
http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrIC_AqhKb7yhskHOj6VpDS%2F%2FJgg2Jxb9gncnUyUgbnuttBweOlylfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxij3uZ0bjQBOLNTNvQ9fUIEOvA5LtW0GL [accessed 26 September 2022]

Supporting Evidence (2020), Section heading: Education - Religious education is not inclusive
Page number:79, para: 3

Suggested change/ new development:

Since the 1990s, the core Religious Education syllabus taught in grant-aided schools has been developed and overseen by representatives of the four main Christian churches in Northern Ireland. Key Stage 3 includes one module entitled 'World Religions', but otherwise this syllabus is almost exclusively Christian in content. Since the rationale given in the syllabus for the minimal teaching about religions other than Christianity is 'to develop knowledge of and sensitivity towards, the religious beliefs, practices and lifestyles of people from *other* religions in Northern Ireland' (DoE, 2007, p.29), it is clear the assumption is that all pupils will be Christians learning about other faiths, rather than those who hold these faiths themselves.

Humanism is entirely absent from the curriculum, as is any discussion of the fact that there are people who hold non-religious beliefs. As we pointed out in our 2020 submission, in 2015, the High Court in England found that the UK Government had made an 'error of law' when it claimed that a school that simply teaches GCSE Religious Studies, the specification for which does not have to include substantive content on non-religious worldviews like humanism, would be providing sufficient teaching to meet its mandatory duty to provide religious education. This was because the failure to make sure that Key Stage 4 pupils would receive RE that considered both religious and non-religious perspectives amounted to a breach of the duty, under the European Convention on Human Rights, to 'take care that information or knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner' (*R(Fox) v Secretary of State for Education* (2015), para. 39).

In a more recent development (and as noted above), in 2022, a non-religious father and daughter challenged the content of the RE syllabus in the High Court (*JR87* (2022)). They argued that the exclusively Christian nature of RE and collective worship breached their freedom of religion or belief under human rights law. The Court ruled in their favour. At the time of writing, the Court has not determined the next steps the Department of Education must take to remedy the situation. However, the judgment makes plain that the way RE is currently taught is not adequately inclusive and, on this basis, changes must be made to guarantee all children are treated equally regardless of background.

Such changes are particularly necessary in light of changing demographics in Northern Ireland. The most recent census shows that one in six are now

non-religious, a figure that has nearly doubled over the past decade (NISRA, 2022; Humanists UK, 2022b). The figures among parents and young people will be even higher. The higher results for the non-religious have come about in spite of the fact that there is a problem with the way the census question is phrased, in that the question assumes that people are religious. It therefore undercounts the non-religious share of the population. A better question is asked by the annual Northern Ireland Life and Times Survey. It asks 'Do you regard yourself as belonging to any particular religion? If yes, which?' In 2021, 28% of the population ticked 'No religion' (NILT, 2021).

Evidence (relevant statistics, research, consultation – including author, date of publication, title, publisher, url):

DoE (2007) *Core Syllabus for Religious Education* [online]
<https://www.education-ni.gov.uk/sites/default/files/publications/de/religious-education-core-syllabus-english-version.pdf> [accessed 26 September 2022].

Humanists UK (2022b) '*NI Census shows one in six are non-religious – nearly doubling in just 10 years*', 22 September 2022 [online]
<https://humanists.uk/2022/09/22/northern-ireland-census-shows-big-rise-in-non-religious-to-17/> [accessed 26 September 2022].

In the matter of an application by JR87 for Judicial Review [COL11833], para. 122.
<https://humanists.uk/wp-content/uploads/COL11833-JR-87-Judgment-dated-05-07-2022.doc.pdf> [accessed 26 September 2022].

NILT (2021) '*Do you regard yourself as belonging to any particular religion? If yes, which?*' [online] <https://www.ark.ac.uk/nilt/2021/Background/RELIGION.html> [accessed 26 September 2022].

NISRA (2022) '*Census 2021 main statistics religion tables*' [online]
<https://www.nisra.gov.uk/publications/census-2021-main-statistics-religion-tables> [accessed 26 September 2022].

R (Fox) -v- Secretary of State for Education [2015] EWHC 3404
<https://www.judiciary.uk/wp-content/uploads/2015/11/r-fox-v-ssfe.pdf> [accessed 2 September 2022].

Supporting Evidence (2020), Section heading: Adolescent health - Current RSE provision is inadequate

Page number:23, para: 2

Suggested change/ new development:

Over the past two years, there have been important developments in relationships and sexuality education policy in the rest of the UK. In England, Relationships and Sex Education (RSE) became mandatory in all state-funded secondary schools in September 2020. From that date, Relationships Education also became mandatory for all primary age pupils attending state schools, and Health Education became

compulsory in all schools (except independent schools, where PSHE was already compulsory). Sex education is not compulsory in primary schools, although individual primary schools can choose to offer it at their own discretion. As part of sweeping reforms in Wales, the Government has made Relationships and Sexuality Education compulsory for all pupils aged 3-16. This new curriculum is being implemented from September 2022.

Although Northern Ireland was somewhat ahead of the rest of the UK in terms of implementing compulsory RSE, by introducing the subject in 2007, the lack of a statutory curriculum means that provision is still extremely patchy. This is despite the fact that the Council for the Curriculum, Examinations, and Assessment (CCEA) has produced some fairly comprehensive guidance on teaching RSE for primary and post-primary schools. This includes content on consent, contraception, healthy relationships, internet safety, LGBT matters, and social media and self-esteem.

Nevertheless, without a statutory curriculum, our concerns raised in 2020 remain valid: in Northern Ireland, RSE is permitted to be taught from a faith-based perspective, and this means that there is a significant risk that content will be distorted to match the philosophical convictions underpinning the school's ethos. With all schools in Northern Ireland being effectively 'faith' schools, all children are therefore clearly at risk of being taught inadequate RSE.

Evidence (relevant statistics, research, consultation – including author, date of publication, title, publisher, url):

Department for Education (2020) *Relationships Education, Relationships and Sex Education (RSE) and Health Education Statutory Guidance* [online] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1090195/Relationships_Education_RSE_and_Health_Education.pdf (accessed 28 September 2022).

Curriculum and Assessment (Wales) Act 2021
<https://www.legislation.gov.uk/asc/2021/4/contents/enacted> (accessed 28 September 2022)

Supporting Evidence (2020), Section heading: Education - There is no requirement to teach evolution and no prohibition on the teaching of pseudoscientific theories as fact

Page number:29, para: 4

Suggested change/ new development:

There have been no changes to the law in this area since 2020. Science is a core component of the Northern Ireland curriculum. However, it is not compulsory at Key Stage 4 (although schools must offer access to at least one course that leads

to a qualification in this area). There is no requirement to teach evolution at any stage. The terms 'evolution' and 'natural selection' are entirely absent from the statutory curriculum guidance, meaning it would be possible for schools to leave them out of the curriculum altogether if they wished.

Unlike in England – where state-funded schools are precluded from teaching 'any view or theory... as evidence-based if it is contrary to established scientific or historical evidence and explanations' – there is no prohibition on the teaching of pseudoscientific theories such as creationism or intelligent design as if they were scientifically valid.

Evidence (relevant statistics, research, consultation – including author, date of publication, title, publisher, url): n/a

Thank you for taking the time to respond.

Please return this template to Claire Kemp: Claire@childrenslawcentre.org by Friday 30th September 2022.