

NGO REPORT TO INFORM THE UN COMMITTEE ON THE RIGHTS OF THE CHILD: WRITTEN INPUTS TO STATE REPORT ON THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

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SUMMARY

In response to the call for evidence to inform the alternative report on the State Party response to the LOIPR, we raise the following issues:

1. Legal requirement to conduct Christian collective worship in schools;
2. Religiously selective school admissions policies;
3. Lack of fully inclusive provision in religious education (RE);
4. Religious exemptions in the provision of relationships and sex education (RSE);
5. Lack of proper regulation for unregistered/illegal schools.

Issues 1-4 deal with the cluster of the CRC concerned with Civil Rights and Freedoms, specifically freedom of thought, conscience and religion (article 14). However, they are considered through the prism of Education, Leisure, and Cultural Activities. Issue 5 also falls under Safeguarding Children including Violence against Children. Each section includes details of what has changed with respect to the highlighted children's rights issues since the LOIPR and a brief analysis of the Government's progress in relation to those issues.

1. REQUIREMENT TO CONDUCT CHRISTIAN COLLECTIVE WORSHIP IN SCHOOLS

In 2016, the UN Committee recommended that the compulsory requirement for schools to conduct religious worship should be repealed.¹ Nevertheless, despite being pressed to 'describe the measures taken to repeal legal provisions for compulsory attendance at collective worship in publicly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,² the Government's State Party report says it has no plans to review this policy (outside of Scotland). This will leave schools in England and Wales legally mandated to carry out a daily act of collective worship that is 'wholly or mainly of a broadly Christian character'.³ In Northern Ireland, there is no explicit legal requirement that collective worship has a distinctly Christian character. 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.⁴

In England and Wales, although schools can opt – through a process called 'determination' – to have worship that aligns with an alternative faith, they are not permitted to opt out of delivering worship altogether. Indeed, in a recent parliamentary debate on the matter, the UK Government acknowledged that the law '[does] not permit the replacement of collective worship with a non-religious option'.⁵ On this basis, a primary school in Hampshire was recently refused permission to opt out of the Christian worship requirement even though two thirds of pupils' families do not identify as Christian (with 55.8% saying they are non-religious).⁶

Parents have a legal right to withdraw their children from collective worship in England, Wales, and Northern Ireland. And, since 2006, sixth-form pupils in England and Wales have been permitted to withdraw themselves from these sessions. However, by failing to address this archaic law, the Government continues to ignore the fact that, under both the Human Rights Act 1998 and Article 14

¹ 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%2FPPrICAqhKb7yhskH0j6VpDS%2F%2FJqg2Jxb9gncnUyUgbnuttBwe0lylfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjij3uZ0bjQBOLNTNvQ9fUIEOvA5LtwOGL>> [accessed 30 November 2022].

² UN Convention on the Rights of the Child, Committee on the Rights of the Child, *List of issues prior to submission of the combined sixth and seventh reports of United Kingdom of Great Britain and Northern Ireland* (9 February 2021), Sec. C., para. 17 (a) <https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/GBR/CRC_C_GBR_QPR_6-7_44382_E.pdf> [accessed 30 November 2022].

³ School Standards and Framework Act 1998 <<https://www.legislation.gov.uk/ukpga/1998/31/part/II/chapter/VI/crossheading/religious-worship>> [accessed 30 November 2022].

⁴ Indeed, in the recent High Court case discussed later in this section, worship was certainly understood by the parties to be necessarily Christian in character.

⁵ Hansard HL Deb. vol. 814 col. 1094, 10 September 2021 <<https://hansard.parliament.uk/lords/2021-09-10/debates/1F8305FD-63BA-4E38-99C4-774928DED5AA/Debate>> [accessed 30 November 2022].

⁶ May, L "'Humanist' headteacher claims forcing children at her "diverse" primary school to have Christian assemblies "breaches their human rights" because only a third follow the religion', *Daily Mail* (22 August 2022) <<https://www.dailymail.co.uk/news/article-11134653/Headteacher-says-forcing-primary-school-children-Christian-assemblies-breaches-human-rights.html>> [accessed 30 November 2022].

of the United Nations Convention on the Rights of the Child (UNCRC), younger children also have the right to freedom of religion or belief; a right that is not respected when religious worship is imposed upon them. 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 they or their parents opt-out.

In Northern Ireland, in a case known as *JR87*, the High Court recently 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.⁷ 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'⁸ and 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'.⁹

2. RELIGIOUSLY SELECTIVE SCHOOL ADMISSIONS

In England and Wales, state-funded schools designated with a religious character enjoy an exemption to the Equality Act which means they are legally permitted to select their pupils on the basis of faith.¹⁰ In the case of voluntary aided (VA) schools and converter academies, up to 100% of pupils may be selected in this way if the school is oversubscribed. However, this is capped at 50% for new academies, also known as 'free schools'.

Following a public outcry and two years of sustained campaigning led by Humanists UK, in 2018 the Government abandoned a proposal to remove the 50% cap on religious selection in free schools¹¹. However, as a concession to religious groups such as the Catholic Education Service, who had refused to open any new schools if the cap remained in place, it simultaneously proposed a new funding scheme for a wave of fully selective VA schools to open. To date, and despite local

⁷ *In the matter of an application by JR87 for Judicial Review [COL11833]*, para. 122. <<https://www.judiciaryni.uk/sites/judiciary/files/decisions/%5B2022%5DNIQB53Final%20-%20Approved.pdf>> [accessed 17 November 2022].

⁸ *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].

⁹ *In the matter of an application by JR87 for Judicial Review [COL11833]*, para. 122. <<https://www.judiciaryni.uk/sites/judiciary/files/decisions/%5B2022%5DNIQB53Final%20-%20Approved.pdf>> [accessed 17 November 2022].

¹⁰ Equality Act 2010, Schedule 11(5) <<https://www.legislation.gov.uk/ukpga/2010/15/schedule/11>> [accessed 2 September 2022].

¹¹ Humanists UK, 'Humanists UK wins Government U-turn on 50% cap on faith school admissions' (11 May 2018) <<https://humanism.org.uk/2018/05/11/humanists-uk-wins-government-u-turn-on-50-cap-on-faith-school-admissions/>> [accessed 2 September 2022].

opposition, two such schools have been approved – a Catholic school in Peterborough¹² and a Church of England School in Kingston Upon Thames.¹³

Religious discrimination in school admissions violates the principle of non-discrimination enshrined in Article 2 of the UNCRC. It also flies in the face of Article 14, since the right and ability of children to be autonomous and hold different beliefs to their parents is severely limited by the ability of faith schools to discriminate on the basis of parental belief and practice.

Further, there is a wealth of robust evidence to demonstrate that religious selection not only segregates pupils according to religion, but also along ethnic and socio-economic lines, as well as by prior attainment.¹⁴ As studies that control for pupil background show,¹⁵ it is this rather than a faith ethos that accounts for any enhanced levels of attainment or performance in national league tables. However, skewed performance data tends to fuel the idea that faith schools are 'better' than other types of school and encourages parents (particularly the highly educated and those from more advantaged socio-economic groups) to use all the means at their disposal to gain a place, thus exacerbating existing inequalities.

What's more, faith schools are currently permitted to de-prioritise looked after and previously looked after children who do not share the faith using their religious selection policies. Research conducted by Humanists UK in 2021 established that 41% of faith secondary schools (including 76% of Catholic secondaries and 100% of Jewish secondaries) discriminate against children who are or were in care in this way.¹⁶ This means that some of the most disadvantaged and vulnerable children

¹² Humanists UK, 'Anger as council rejects challenge to Catholic school unfairly imposed on newbuild community' (5 February 2021) <<https://humanists.uk/2021/02/05/local-anger-as-peterborough-council-refuses-to-overturn-new-catholic-school-decision/>> [accessed 1 September 2022].

¹³ Humanists UK, 'New faith school gets approval because councillors told it's "this school or no school"' (22 June 2021) <<https://humanists.uk/2021/06/22/new-faith-school-gets-approval-because-councillors-told-its-this-school-or-no-school/>> [accessed 1 September 2022].

¹⁴ For an overview see Accord Coalition, Databank of Independent Evidence on Faith Schools (2020) <<http://accordcoalition.org.uk/research/>> [accessed 30 November 2022] and Fair Admissions Campaign, Research into religiously selective admissions criteria (2017) <<http://fairadmissions.org.uk/wp-content/uploads/2017/08/2017-08-29-FINAL-Religious-Selection-Research-Survey.pdf>> [accessed 30 November 2022].

¹⁵ See Education Policy Institute, *Faith Schools, pupil performance, and social selection* (2016) <<https://epi.org.uk/publications-and-research/faith-schools-pupil-performance-social-selection/>>; or Stephen Gibbons and Olmo Silva, 'Faith Primary Schools: Better Schools or Better Pupils', *Discussion Paper No. 72* from the Centre for the Economics of Education (CEE) at CEP <<http://cee.lse.ac.uk/cee%20dps/ceedp72.pdf>>; or Humanists UK, 'Secondary league tables unfairly benefit religious schools by ignoring pupil backgrounds say academics' (2019) <<https://humanism.org.uk/2019/01/24/secondary-league-tables-unfairly-benefit-religious-schools-by-ignoring-pupil-backgrounds-say-academics/>> [accessed 12 May 2020].

¹⁶ Humanists UK, *Careless or Uncaring? How faith schools turn away children who are or were in care* (August 2021) <https://humanists.uk/wp-content/uploads/Humanists_FaithSchools_V2_web.pdf> [accessed 1 September 2022].

are missing out on good school places, an issue which was recently raised by the Chief Adjudicator, Shan Scott, in the most recent Office of the Schools Adjudicator's Annual Report.¹⁷

Given the UK Government's recent decision to create a fully academised system as part of reforms in its current Schools Bill,¹⁸ it seems possible there will be no additional funding for more VA schools. This may be a positive step. However, the Government has done nothing to address the issue of religious selection and we are concerned that, in light of academisation, the 50% cap may be subject to renewed attack from religious groups that wish to retain the right to select all pupils by faith. We note that in response to a recent parliamentary question, former Schools Minister Robin Walker said 'The 50% cap will remain under review and the department is open to discussion with groups who provide schools with a religious character, including the Catholic Church.'¹⁹ This suggests that the Government may still be open to removing the cap – a move that would be disastrous for children's rights.

School segregation in Northern Ireland

In Northern Ireland, faith-based admissions are uncommon. However, this is because the mechanisms that cause segregation between the different religion and belief communities are quite different and often involve self-segregation. There is broad agreement among politicians and stakeholders 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.²⁰ But education in Northern Ireland remains stubbornly segregated, causing similar issues to those that exist in countries where faith-based selection is more prevalent.

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.²¹ In post-primary schools, the proportion is less than 2%.²² 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.

¹⁷ Humanists UK 'Faith schools disadvantage vulnerable children – Schools Adjudicator' (5 April 2022) <<https://humanists.uk/2022/04/05/faith-schools-disadvantage-vulnerable-children-schools-adjudicator/>> [accessed 1 September 2022].

¹⁸ UK Parliament, Schools Bill 2022 <<https://bills.parliament.uk/bills/3156> [accessed 2 September 2022]

¹⁹ They Work for You 'Faith School Admissions: Department for Education written question – answered on 25 May 2022' <<https://www.theyworkforyou.com/wrans/?id=2022-05-17.3504.h>> [accessed 1 September 2022].

²⁰ 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].

²¹ 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-pr-e-school-education-northern-ireland-2021-22>> [accessed 26 September 2022].

²² Ibid.

The number of integrated schools is slowly increasing.²³ 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.²⁴

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.²⁵

The new Act also does nothing to address the exclusively Christian ethos of integrated schools. As discussed in Sections 1 & 3, like all other schools in Northern Ireland, they are still required to conduct daily collective worship and teach an RE syllabus written by the four main Christian churches.

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 teachers of RE in Catholic schools (including all teachers in Catholic primaries) being required to hold a Certificate in Religious Education that meets criteria laid down by the Irish Catholic Bishops’ Conference.²⁶

²³ Ibid. p.21

²⁴ 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].

²⁵ Humanists UK (2022), ‘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-assembly-votes-to-weaken-integrated-education-bill/>> [accessed 26 September 2022].

²⁶ 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].

3. LACK OF INCLUSIVE RELIGIOUS EDUCATION (RE)

In 2015, the High Court found that the 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 include non-religious worldviews like humanism, would be providing sufficient teaching to meet its mandatory duty to provide religious education (RE). This was because the failure to ensure 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'.²⁷

Despite this ruling (henceforth referred to as *Fox*), RE in many schools in England still excludes non-religious beliefs. Following the case, the landmark report of the Commission on Religious Education (CoRE) also argued that the subject should be fully inclusive of humanism and renamed Religion and Worldviews to reflect the fact it should cover both religious and non-religious perspectives.²⁸ Nevertheless, the Government has chosen not to take further steps to ensure that they do. Indeed, one of the reasons given for not implementing the CoRE recommendations was that 'some stakeholders have concerns that making statutory the inclusion of "worldviews" risks diluting the teaching of RE,'²⁹ a discriminatory view of non-religious beliefs that has been repeated on several occasions by the Catholic Education Service.³⁰

The Government's position on this matter has led to many children being denied access to inclusive RE provision. In some cases, this has required families to resort to threats of legal action in order to ensure their freedom of religion or belief is respected. For instance, in July 2022, a humanist parent in Worcestershire challenged the GCSE syllabus at his child's school on the basis that it was not sufficiently pluralistic and did not treat non-religious perspectives with equal respect.³¹ Although the parent was able to secure more inclusive provision via the threat of judicial review, many parents will not be in a position to take such steps in order to secure the rights of their children.

²⁷ *R (Fox) v Secretary of State for Education* 2015, para 39 <<https://www.judiciary.uk/wp-content/uploads/2015/11/r-fox-v-ssfe.pdf>> [accessed 2 September 2022].

²⁸ Commission on Religious Education, *Religion and worldviews: the way forward, a national plan for RE* (2018) <<https://www.commissiononre.org.uk/wp-content/uploads/2018/09/Final-Report-of-the-Commission-on-RE.pdf>> [accessed 2 September 2022].

²⁹ Letter to the Chair of the Commission on RE from Secretary of State for Education, Damian Hinds, 6 December 2018 <<https://www.religiouseducationcouncil.org.uk/wp-content/uploads/2018/12/Letter-to-The-Very-Reverend-Doctor-John-Hall-from-Rt-Hon-Damian-Hinds-MP...-1.jpg>> and <<https://www.religiouseducationcouncil.org.uk/wp-content/uploads/2018/12/Letter-to-The-Very-Reverend-Doctor-John-Hall-from-Rt-Hon-Damian-Hinds-MP...-2.jpg>> [accessed 2 September 2022].

³⁰ Catholic Education Service, 'Statement from the Catholic Education Service on the consultation on RE and RSE in Wales' (3 October 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 2 September 2022].

³¹ Humanists UK, 'School will provide RE fully inclusive of humanism following legal threat' (12 July 2022) <<https://humanists.uk/2022/07/12/school-will-provide-re-fully-inclusive-of-humanism-following-legal-threat/>> [accessed 1 September 2022].



What's more, like *Fox*, the ruling in the *JR87* case in Northern Ireland (cited above) illustrates that the Government has a responsibility to ensure that the curriculum is not biased in favour of (or against) a particular worldview, one which it is currently derogating by failing to mandate the inclusion of non-religious perspectives in RE.

Further, despite repeated requests from Humanists UK, the DfE has refused to instruct local authorities (LAs) that humanist representatives may participate as full voting members of the bodies that oversee and produce the locally agreed RE syllabuses, saying that this is a decision for LAs. Unfortunately, this means that, contrary to the Human Rights Act 1998 which treats religious and non-religious beliefs equally, many of these bodies still exclude humanists and syllabuses are not adequately inclusive as a result.

Here it is worth noting that, as part of an overhaul of the curriculum in Wales, the Welsh Government has recently enacted the Curriculum and Assessment (Wales) Act which requires that humanism and humanist representatives are explicitly included in the curriculum and the bodies responsible for it.³² Nevertheless, the continued legal requirement for collective worship (which does not permit a non-religious alternative) undermines the commitment to inclusivity and children's rights that ostensibly motivated the Welsh Government to introduce the Act,³³ and so ought to be addressed as a matter of urgency.

In Northern Ireland, the situation is even worse than in England. At present, 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'³⁴, 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.

The aforementioned legal case, *JR87*, found that the exclusively Christian nature of RE breached human rights law. However, we have subsequently learned that, rather than attempting to address this situation by making RE provision in Northern Ireland more objective, critical and pluralistic, the Department of Education has decided to appeal the judgment. This refusal to acknowledge the needs of children from minority faith and non-religious backgrounds in the curriculum and ethos of

³² Curriculum and Assessment (Wales) Act 2021
<<https://www.legislation.gov.uk/asc/2021/4/contents/enacted>> [accessed 1 September 2022].

³³ See e.g. Welsh Government (2021) *Curriculum and Assessment (Wales) Act 2021: Explanatory Memorandum*, pp. 28-29 & 146-148, <https://gov.wales/sites/default/files/publications/2021-04/curriculum-and-assessment-act-explanatory-memorandum.pdf> [accessed 24 November 2022]

³⁴ 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].

Northern Ireland's schools is particularly problematic when considered in light of the rapidly changing demographics of the country. The most recent census shows that one in six are now non-religious, a figure that has nearly doubled over the past decade.³⁵ Amongst young people, the number is even higher, with 40% of 16 year olds identifying as non-religious according to the Young Life and Times Survey.³⁶

In the rest of the UK, the number of non-religious people also continues to increase at pace. According to the most recent British Social Attitudes Survey, more than half of British adults (53%) now identify as belonging to no religion, a figure that rises to 68% amongst those aged 18-24.³⁷ The failure to include adequate coverage of the beliefs of such a significant proportion of the population is not in keeping with the spirit of Article 13 of the UNCRC, which guarantees the right of the child 'to seek, receive and impart information and ideas of all kinds,' as well as with the overall principles of non-discrimination in Article 2, and the freedom of religion or belief enshrined in Article 14. As the changes in Wales illustrate, the failure to adequately include humanism is also inconsistent with the Human Rights Act 1998, which together with case law demands equal treatment of religious and non-religious worldviews.

4. RELIGIOUS EXEMPTIONS FROM RELATIONSHIPS AND SEX EDUCATION (RSE)

Relationships and Sex Education (RSE) became mandatory in all state-funded secondary schools from 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.

All the best evidence shows that teaching about different types of relationship, 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.³⁸ 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, 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'.

³⁵ 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].

³⁶ Young Life and Times Survey (YLT) (2021) Summary of Results 2020-21 [online] <<https://www.ark.ac.uk/ylt/results/summary20-21.pdf>> [accessed 9 November 2022].

³⁷ Humanists UK, 'Latest British Social Attitudes survey shows huge generational surge in the non-religious', (1 April 2021) <<https://www.google.com/url?q=https://humanists.uk/2021/04/01/latest-british-social-attitudes-survey-shows-huge-generational-surge-in-the-non-religious/&sa=D&source=docs&ust=1662373952574331&usg=AOvVaw0JcSvBFYr4QEpsgvfEE-vl>> [accessed 24 November 2022].

³⁸ 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 1 September 2022].

However, the current law on RSE only goes part of the way towards addressing the recommendation set out in paragraph 64(b) of the last set of Concluding Observations, that the Government should 'ensure that meaningful sexual and reproductive health education is part of the mandatory school curriculum for all schools.'³⁹ This is for three reasons.

First, although the subject is now compulsory, no particular curriculum content is compulsory, so some schools can choose to teach very little RSE.

Second, although parents now have no right to remove their children from relationships education, they retain the right to withdraw children from sex education in all but 'exceptional circumstances'. It is alarming to think an abusive parent could simply exercise the right to withdraw a child from sex education and, by so doing, prevent them from receiving adequate safeguarding education.

Pupils who are three terms (or less) from the age of 16 may attend lessons in sex education without parental consent, in line with the law on Gillick competence. However, leaving the option to receive sex education to such a late stage exacerbates the risk that pupils will suffer harms (including the potential contraction of STIs, teenage pregnancy, sexual exploitation, and abuse) that they are ill equipped to understand, or to know how and when to seek the advice of someone who could help.

The right to withdraw can also be abused by schools. There are a small number of schools in England that may well attempt to use this duty to engage with parents on RSE (outlined in the guidance⁴⁰) as a means of encouraging parents to withdraw their children. Indeed, in the past we have been made aware of schools putting such pressure on parents,⁴¹ or even cutting out parental consultation altogether by refusing to teach the subject, stating this is because 'in practice, all parents will exercise their statutory right to withdraw'.⁴²

³⁹ UN Committee on the Rights of the Child, *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland* (2016) para 64(b) <https://tbinternet.ohchr.org/_layouts/15/tr_eatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en> [accessed 19 August 2020].

⁴⁰ Department for Education, *Relationships Education, Relationships and Sex Education (RSE) and Health Education: Statutory guidance for governing bodies, proprietors, head teachers, principals, senior leadership teams, teachers* (2019) p.17 <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805781/Relationships_Education__Relationships_and_Sex_Education__RSE__and__Health_Education.pdf> [accessed 01 September 2022].

⁴¹ Humanists UK, 'Jewish school caught encouraging mass withdrawal of children from RSE so school can foster 'good religious girls' (24 July 2019) <<https://humanism.org.uk/2019/07/24/jewish-school-caught-encouraging-mass-withdrawal-of-children-from-rse-so-school-can-foster-good-religious-girls/>> [accessed 01 September 2022].

⁴² Humanists UK, 'Yesodey Hatorah says censoring exam questions 'has successfully been in place within the Charedi schools throughout England for many years' (28 March 2014) <<https://humanism.org.uk/2014/03/28/yesodey-hatorah-says-censoring-exam-questions-successfully-place-within-charedi-schools-throughout-england-many-years/>> [accessed 1 September 2022].

Finally, the statutory guidance on RSE explicitly states that **'the religious background of all pupils must be taken into account when planning teaching.'**⁴³ The impact of this is felt in the teaching of a range of topics, including abortion and contraception, but is perhaps at its most significant when it comes to LGBT-inclusive RSE. The statutory guidance says only that the Government expects 'all pupils to have been taught LGBT content at a timely point'.⁴⁴ It leaves schools free to determine when this point is. It also suggests that, on the basis of consultation with 'parents and the local community', schools may require a 'differentiated curriculum',⁴⁵ leaving individual schools vulnerable to pressure from a vocal minority who don't want certain topics taught. This clearly means that children in some religious groups can be denied lessons about LGBT and other issues on the grounds of their school's or parents' beliefs. This undermines the right of such children to 'have access to accurate information on their sexuality.'⁴⁶ It also does not address the issues of stigmatisation and bullying that LGBT children are frequently subjected to when their peers do not receive properly inclusive education in this area.⁴⁷

Here it should be noted that, as part of sweeping reforms to the curriculum in Wales (see above),⁴⁸ the Welsh Government has recently removed the parental right to withdraw from RSE in order to protect children's rights. It has also enshrined core learning in the subject in law via an RSE Code, which, amongst other things, stipulates that children must learn about LGBTQ+ diversity.⁴⁹ Since there is no right to withdraw, the subject 'must be objective, critical, and pluralistic as to its content and manner of teaching' and 'where questions of values are concerned, schools and settings must provide a range of views on a given subject, commonly held within society.'⁵⁰ In effect, this means that Wales has abolished faith-based carve-outs to RSE. We firmly believe that to adequately comply with the UNCRC the UK Government should follow the Welsh Government's lead and remove these exemptions in England.

⁴³ Department for Education, *Relationships Education, Relationships and Sex Education (RSE) and Health Education: Statutory guidance for governing bodies, proprietors, head teachers, principals, senior leadership teams, teachers* (2019) para. 20, p.12 and para. 68, p. 24. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805781/Relationships_Education__Relationships_and_Sex_Education__RSE__and_Health_Education.pdf> [accessed 1 September 2022].

⁴⁴ *Ibid.* para. 37, p.15.

⁴⁵ *Ibid.* para. 114, p.41.

⁴⁶ UN Committee on the Rights of the Child, *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland* (2016) para 63b <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en> [accessed 1 September 2022].

⁴⁷ Research shows that 45% of LGBT pupils are subject to bullying because of their identity, and the majority hear discriminatory language in school (see Stonewall, *School Report 2017* <<https://www.stonewall.org.uk/school-report-2017>> [accessed 1 September 2022].

⁴⁸ Curriculum and Assessment (Wales) Act 2021 <<https://www.legislation.gov.uk/asc/2021/4/contents/enacted>> [accessed 1 September 2022].

⁴⁹ Welsh Government, *The Curriculum for Wales – Relationships and Sexuality Education Code* (2022) <<https://gov.wales/sites/default/files/publications/2022-01/curriculum-for-wales-relationships-sexuality-education-code.pdf>> [accessed 1 September 2022].

⁵⁰ Welsh Government, 'Curriculum for Wales: summary of legislation' (2022) <<https://hwb.gov.wales/curriculum-for-wales/summary-of-legislation/#relationships-and-sexuality-education>> [accessed 1 September 2022].

5. THE CONTINUED EXISTENCE OF UNREGISTERED/ILLEGAL SCHOOLS

A significant number of unregistered, illegal schools are operating in England, many of which are religious. Since 2014, we have led the campaign for better regulation of these settings and have worked with whistleblowers who attended such institutions to bring public attention to the issue.

Unregistered faith schools serve a variety of different religious groups, but all tend to be fundamentalist, extreme, or isolationist in their outlook, and provide their pupils with a narrow religious curriculum unsuitable in modern Britain. Many operate in unsafe, unhygienic conditions.⁵¹ There is also evidence of severe failures in safeguarding, with children exposed to physical abuse as well as extremist, homophobic and sexist literature.⁵²

In 2019, Ofsted revealed that approximately 6,000 children are being taught in unregistered schools.⁵³ As of April 2022, Ofsted has investigated 923 suspected schools since 2016. Of these, 121 were known to be places of religious instruction. A further 228 were settings providing general education, which may or may not have a faith character but are not broken down by religion in the published data.⁵⁴

Loopholes in the existing law have made it difficult to regulate unregistered schools. The problem is especially acute when settings have a religious character because such institutions only need to register if they provide a curriculum that is 'suitable for children of primary or secondary age'.⁵⁵ In other words, it actually benefits these institutions to give children an unsuitable education because then they are not required to register. Former pupils have told us they were not taught secular subjects like science or geography at all, and some left unable to speak English.

The existence of unregistered schools undermines key Convention rights, including Article 19 – requiring state parties to 'take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment [and] maltreatment', be that by parents or in school; and Article 28 – the

⁵¹ See YouTube, 'BHA exposé on indoctrination by illegal Jewish schools which are registered as charities' (2016) <<https://www.youtube.com/watch?v=ACgWIZLxhBw>> [accessed 2 September 2022]; Humanists UK, 'Joint BBC/Humanists UK investigation: abuse at illegal religious schools' (26 February 2018) <<https://humanism.org.uk/2018/02/26/joint-bbc-humanists-uk-investigation-abuse-at-illegal-religious-schools/>> [accessed 2 September 2022]; YouTube, 'Jay Harman discusses illegal religious schools on Victoria Derbyshire programme' (16 September 2016) <<https://www.youtube.com/watch?v=LVsz6Bn29Bo>> [accessed 2 September 2022].

⁵² Ofsted, *Unregistered schools: Ofsted advice notes* (2015–2016) <<https://www.gov.uk/government/publications/unregistered-schools-ofsted-advice-note>> [accessed 2 September 2022].

⁵³ Humanists UK, 'New data on illegal schools reveals grave situation, says Humanists UK' (12 April 2019) <<https://humanism.org.uk/2019/04/12/new-data-on-illegal-schools-reveals-grave-situation-says-humanists-uk/>> [accessed 2 September 2022].

⁵⁴ Ofsted, *Statistical data set: Unregistered schools management information* <<https://www.gov.uk/government/statistical-data-sets/unregistered-schools-management-information>> [accessed 2 September 2022].

⁵⁵ See Education Act 1996 section 2 <<https://www.legislation.gov.uk/ukpga/1996/56/section/2>> and section 4 <<https://www.legislation.gov.uk/ukpga/1996/56/section/4>> [accessed 2 September 2022].

right to education, which also explicitly requires that school discipline should be administered in a manner consistent with the child's human dignity and in conformity with the present Convention. Pupils in settings with a religious character are also denied their Article 14 freedoms of religion or belief through being forced to study a narrow religious curriculum.

However, to date, largely as a result of the flaws in the legal framework, there have been just six successful prosecutions of the providers of illegal schools, five of which involved Muslim schools. And, alongside Humanists UK, Ofsted has repeatedly called for additional powers to tackle the problem.⁵⁶

In May 2022, the Government finally introduced draft legislation, in parts 3 and 4 of the Schools Bill, to tackle the problem of unregistered religious settings. This will:

1. Widen the range of educational setting that must register with the Department for Education and establish a legal definition of 'full time' education;
2. Give the Government additional powers to change the law if providers are found to be using legal loopholes to continue to deny pupils a broad and balanced education;
3. Introduce a register of home educated children.

We strongly support the proposals, which reflect what we have been requesting for many years. However, as of early December 2022 the Schools Bill is awaiting its third reading in the House of Lords. While parts 3 and 4 of the Bill enjoy cross-party support, part 1 is more controversial. The UK Government must ensure that the popular and long-awaited proposals to tackle illegal schools in parts 3 and 4 do not fall victim to any decisions to rethink the more controversial academisation plans in part 1 of the Bill.

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⁵⁶ *The Times*, 'Ofsted chief calls for home-schooling register' (12 January 2022) <https://www.thetimes.co.uk/article/ofsted-chief-calls-for-home-schooling-register-wwf9xk5b2> [accessed 2 September 2022].



ANNEX: ABOUT 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 100,000 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.

We have 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 our Understanding Humanism website⁵⁷ and our school speakers programme. We have made detailed responses to all recent reviews of the school curriculum in England, Wales, and Northern Ireland, and submit memoranda of evidence to MPs, civil servants and parliamentary select committees on a range of education issues.

We are an active member of many organisations working in education in the UK, including the Religious Education Council for England and Wales (REC), of which we are a founding member; the Sex Education Forum; the PSHE Association; Rights of the Child UK (ROCK); and the Children's Rights Alliance for England (CRAE).

Our primary interests in children's rights relate to issues relating to education (in particular RE, PSHE/RSE, citizenship, and science), collective worship/school assemblies, state-funded religious schools, and illegal religious schools.

We operate in Wales and Northern Ireland through our sections, Wales Humanists and Northern Ireland Humanists. In Scotland, devolved matters are the purview of our sister charity, Humanist Society Scotland. For this reason, this response covers England, Wales, and Northern Ireland, but not Scotland.

⁵⁷ Understanding Humanism (2020) <<https://understandinghumanism.org.uk/>> [accessed 17 November 2022].

