

# DEPARTMENT FOR EDUCATION: FAITH DESIGNATION REFORMS FOR NEW AND EXISTING FREE SCHOOLS AND ACADEMIES



Response from Humanists UK, June 2024

## 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 120,000 members and supporters and over 115 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.

## CONSULTATION QUESTIONS – ABOUT

**Question Three: Do you consent to the data you provide being held in accordance with UK GDPR as covered in the Department for Education's personal information charter?**

Yes.

**Question Four: Would you like us to keep your responses confidential?**

No.

**Question Five: In processing your data and meeting legal duties, the Government may be expected to share information about your consultation response. In line with the privacy notice, would you like your response to be kept confidential?**

No.

**Question Six: As the Government analyses the consultation findings, we may identify direct quotes to include in the published Government response – may we use your feedback in this way?**

Yes.

**Question Seven: Are you responding as an individual or on behalf of an organisation?**

Organisation.

**Question Eight: Please select one description of your current role.**

Charity



**Question Nine: What is your organisation's name?**

Humanists UK

**PART ONE: FAITH ADMISSIONS REFORM FOR NEW AND EXISTING FREE  
SCHOOLS**

**Question Ten: Do you support the proposal to remove the 50% faith admissions cap for new and existing free schools?**

Strongly disagree.

**Question Eleven: Please provide further details to your answer for question 10.**

We strongly believe that the proposal to remove the 50% faith admissions cap would constitute a step backwards for social cohesion, and significantly undermine the principles of inclusivity which all governments should be striving to increase, not reduce. If it went ahead, the proposal would increase religious and racial segregation in our schools at a time when integration and cohesion has never been more important. It would further disadvantage poorer families, non-religious families, and families of the 'wrong' religion.

The consultation document sets out a series of rationales for the proposed removal of the 50% cap, namely allowing the faith school providers, the Catholic Church being named in the document, to open new schools, and to increase diversity. We will address these in turn.

**1. The cap as a barrier for Catholic schools to open**

On the cap being a block for new Catholic schools to open. The consultation states (page 11) that

'policy has therefore acted as a barrier to creating more good schools, for example, the 50% cap has been a barrier for some high quality faith school providers, such as the Catholic Church. The Catholic Church believes that opening schools with the cap would cause them to breach canon law, because the requirement to allocate at least 50% of places regardless of faith may mean that some non-Catholic children are allocated places whilst some Catholic children are not.'

We have two main issues with this. The first is that education policy should be driven by the best interests of pupils, not by the religious laws of faith groups.

The second is whether such canon law actually exists. We have addressed these claims on multiple occasions, including in the previous proposal to lift the 50% faith cap. As Professor Linda



Woodhead, Head of the Department of Theology and Religious Studies at King's College London and arguably the UK's leading academic on Christianity, has said:

'There is in fact no such canon. It's the subtlety and openness of canon law on this matter which allows the Catholic Church across the world to operate in a wide variety of educational and legal situations with maximum flexibility.'<sup>1</sup>

Professor Woodhead's argument is also supported by the fact that the vast majority of private Catholic schools in England and Catholic schools in Scotland do not admit with reference to religion. There are also existing Catholic state schools that do not select based on faith. There are already Catholic state schools in England that do not select all their places based on religion. In 2016 we identified that St Richard Reynolds Catholic Primary School in Richmond, St Paul's Academy in Greenwich, and The De La Salle Academy in Liverpool all then left a third of their places open to non-Catholic children. Since then, St John Henry Newman Catholic Primary School in Peterborough has joined that list. It has one-fifth of places that are 'open' and allocated purely on distance from the school.

Looking more internationally, a survey by the OCED found that England was one of four countries to allow schools to select on religious grounds – although it should be noted that one of these four, Ireland, has already started phasing out religious selection in their schools with then Minister for Education, Richard Bruton stating:

'It is unfair that a local child of no religion is passed over in favour of a child of religion, living some distance away for access to their local school. Parents should not feel pressured to baptise their child to get access to their local school. While 90% of our primary schools are of a Catholic ethos, recent figures show that over 20% and growing of our parent-age population is non-religious.'<sup>2</sup>

As Ireland has taken steps to end religious discrimination in schools, the UK Government is actively promoting it in England. Indeed the Catholic Church's own International Education Office – the umbrella body for over 100 national Catholic education organisations around the world, including the Catholic Education Service – is also clear that a

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<sup>1</sup> LSE (2017), 'The government changes to faith schools side with hardline religion', [https://eprints.lse.ac.uk/76468/1/The%20government%E2%80%99s%20changes%20to%20faith%20schools%20side%20with%20hardline%20religion%20\\_%20Religion%20and%20the%20Public%20Sphere.pdf](https://eprints.lse.ac.uk/76468/1/The%20government%E2%80%99s%20changes%20to%20faith%20schools%20side%20with%20hardline%20religion%20_%20Religion%20and%20the%20Public%20Sphere.pdf)

<sup>2</sup> Humanists UK (2018), 'Ireland to remove religious selection for Catholic primary schools in move at odds with UK Government proposals', <https://humanists.uk/2018/05/09/ireland-to-remove-religious-selection-for-catholic-primary-schools-in-move-at-odds-with-uk-government-proposals/>



‘Catholic school is an inclusive school, founded in intercultural and interreligious dialogue. A non-discriminatory school, open to all... It must constantly promote intercultural and interreligious dialogue.’<sup>3</sup>

It is unclear what canon law exists that the cap would contravene. Arguably there is none, as evidence from private schools in England, and state schools around the UK, Ireland, and other countries would suggest. Any block to new Catholic schools opening in England appears to be entirely self-imposed by the Catholic Church of England and Wales. Indeed, in a May 2024 editorial, the Catholic publication *The Tablet* wrote:

‘The government... points out that it never banned the building of new Catholic schools... It was the Catholic bishops who did so, arguing that the cap could mean turning away Catholics once the 50 per cent limit had been reached. This would contradict their right and duty under canon law, they said at the time, to provide a place in a Catholic school for every Catholic child who applied. They argued that the 50 per cent cap would prevent this.

‘But their insistence that they had no choice in the matter, being bound by canon law, has never been seriously tested. Indeed, Canon 793 imposes a right and duty on parents of “choosing those means and institutions through which they can provide more suitably for the Catholic education of their children, according to local circumstances”. Pope John Paul II declared in 1994, in his *Letter to Families*, that the provision of Catholic education “must always be carried out in accordance with a proper application of the principle of subsidiarity”. Quite so.’<sup>4</sup>

The Catholic Church is therefore free to open new free schools to test its claim that these would be in contravention of canon law, and the Catholic Bishops Conference of England and Wales could lift its self-imposed boycott at any time.<sup>5</sup> It simply chooses not to.

## **2. The impact of the cap on integration**

Regarding diversity and whether the cap has had a positive impact, the consultation states (page 11):

‘evidence suggests that the 50% faith admissions cap policy has not been particularly successful in achieving high levels of diversity within faith free schools as originally intended.’

<sup>3</sup> Humanists UK (2017), ‘MPs misled on Catholic school admissions claims’,

<https://humanists.uk/2017/11/20/mps-misled-on-catholic-school-admissions-claims/>

<sup>4</sup> *The Tablet* (2024), ‘Catholic education – seize the chance for wider consultation’, <https://www.thetablet.co.uk/editors-desk/1/24363/catholic-education-seize-the-chance-for-wider-consultation->

<sup>5</sup> *Catholic Herald* (2023), ‘Bishops fight to scrap cap on faith-based admissions to Catholic schools’

<https://catholicherald.co.uk/bishops-fight-to-scrap-cap-on-faith-based-admissions-to-catholic-schools/>



A table is then provided of 'Pupil ethnicity in open free schools', showing the ethnic breakdown of free schools by religious character.

We dispute the veracity of this claim for a number of reasons. The figures in the table are limited in their usefulness, and in their ability to provide justification for dropping the 50% cap. First, the Government's figures don't compare the ethnic make-up of each type of school to the make-up of its local area, which of course is an important detail when assessing how well they are contributing to integration in their particular communities. Different types of religious schools tend to be located in different areas so don't have the same local populations.

And second, what is really needed is to compare these figures to the figures for how diverse 100% religiously selective schools are (i.e. the schools that predate the existence of the cap). What needs to be done in assessing the effectiveness of the 50% cap is to compare the figures for ethnic diversity in faith schools that are 50% selective (whether free schools or otherwise) to the figures for ethnic diversity in existing faith schools that select 100% of their places with reference to religion.<sup>6</sup> When we looked at the data eight years ago, in response to the 2016 *Schools that work for everyone* green paper, our analysis very strongly pointed to the 50% cap having made new religiously selective free schools significantly more ethnically diverse than schools that were 100% religiously selective (primarily as they included more children of Asian heritage). A link to our analysis from 2016 is attached.<sup>7</sup>

We note in passing that the Government made similar errors in a 2016 consultation on the same topic, and had to correct the consultation after advice from the UK Statistics Authority. We are surprised that something similar has happened on this occasion. When the consultation was last run, we went to significant lengths to seek to find and analyse ourselves some of the data that the Government did not provide,<sup>8</sup> to enable us to explain to the UKSA why the consultation was misleading.

### **3. Other benefits of the faith school admissions cap**

The evidence shows that religious selection has the effect of socio-economically skewing the intake of faith schools, favouring children from more affluent families and disproportionately turning away children from poorer backgrounds. Different studies in the last year have also shown that faith

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<sup>6</sup> Being careful to not let the figures be skewed by the many Church of England schools that are 100% faith selective but now 'reserve' a percentage of places (often 10-20%) for children of other faiths.

<sup>7</sup> Humanists UK, 'Ethnic diversity in religious Free Schools', 15 September 2016: <https://humanists.uk/wp-content/uploads/2016-09-15-FINAL-Ethnic-diversity-in-religious-Free-Schools.pdf>

<sup>8</sup> The first piece of work, which is very substantial in itself, involves reviewing all current school admissions policies to work out which schools are 100% religiously selective and which are not religiously selective at all. Consultees cannot be reasonably expected to do that, nor would any of them (having read the consultation) realise that that needs to be done.



schools are less inclusive than schools without a religious character, in terms of disadvantaged children (Sutton Trust)<sup>9</sup>, children in care (OSA)<sup>10</sup>, and those with additional learning needs (LSE)<sup>11</sup>.

This research builds upon a much vaster catalogue of research. In 2016 the Education Policy Institute (EPI) found that there was no academic difference between state-funded faith schools in England and others, once pupils' backgrounds are taken into account. It also found that faith schools take significantly fewer pupils eligible for free school meals than live in their local areas.<sup>12</sup> Earlier work by the Sutton Trust (2017) found that state-funded faith schools are the most socially selective category of comprehensive school, and more than three times more socially selective than schools with no religious character.<sup>13</sup> A report by social integration charity, The Challenge, education data analytics company, SchoolDash, and the iCoCo (Institute of Community Cohesion) Foundation found that state-funded faith schools in England were 'more ethnically segregated than schools of no faith' and 'more likely to cater to more advantaged students'.<sup>14</sup>

It is also worth noting that the Catholic Church's own data on social selection which they use in their lobbying efforts to lift the faith school admissions cap was debunked over a decade ago. The Catholic Education Service uses the Income of Deprivation Affecting Children Index (IDACI) instead of free school meal eligibility but IDACI simply doesn't measure how deprived pupils are, just how deprived their areas are. This makes it an inferior measurement when compared to free school meal eligibility, which does actually measure how deprived pupils are. That's why free school meals eligibility is prominently used as the measure of deprivation.<sup>15</sup>

Removing the 50% cap on free faith school admissions means that schools and providers will have far less incentive to make their ethos more inclusive of children from other backgrounds due to the smaller proportion of their intake that will come from such backgrounds. This is bad for integration on its own, but it will also have the corollary effect of making the school and its ethos less appropriate, less attractive, and less hospitable to families from different religious or non-religious backgrounds. This, in turn and over time, will result in fewer families from different backgrounds

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<sup>9</sup> Humanists UK (2024), 'Sutton Trust: Faith schools admit fewer disadvantaged pupils than other schools' <https://humanists.uk/2024/01/11/sutton-trust-faith-schools-admit-fewer-disadvantaged-pupils-than-other-schools/>

<sup>10</sup> Humanists UK (2024), 'Children in care 'effectively disadvantaged' by state-funded faith schools says Office of Schools Adjudicator', <https://humanists.uk/2024/04/02/children-in-care-effectively-disadvantaged-by-state-funded-faith-schools-says-office-of-schools-adjudicator/>

<sup>11</sup> Humanists UK (2023), 'Christian schools admit fewer children with special educational needs – new research', <https://humanists.uk/2023/10/02/christian-schools-admit-fewer-children-with-special-educational-needs-new-research/>

<sup>12</sup> Humanists UK (2016), 'Education Policy Institute: 'faith schools' academically no better than others, increasing them bad for social mobility', <https://humanists.uk/2016/12/02/education-policy-institute-faith-schools-academically-no-better-than-others-increasing-them-bad-for-social-mobility/>

<sup>13</sup> Humanists UK (2017), 'Faith schools three times more socially selective than others, new research finds (again)', <https://humanists.uk/2017/03/01/faith-schools-three-times-more-socially-selective-than-others-new-research-finds-again/>

<sup>14</sup> Humanists UK (2017), 'New report: "faith schools 'more ethnically segregated", "more likely to cater to more advantaged students"' <https://humanists.uk/2017/03/22/new-report-faith-schools-more-ethnically-segregated-more-likely-to-cater-to-more-advantaged-students/>

<sup>15</sup> Humanists UK (2024), 'The Catholic Church's data on social selection in its schools was debunked over a decade ago', <https://humanists.uk/2024/05/30/the-catholic-churchs-data-on-social-selection-in-its-schools-was-debunked-over-a-decade-ago/>



applying to such schools in the first place, regardless of what their religious selection policies are. Removing the faith cap on admissions will only reduce inclusivity, not improve it.

The removal of the faith cap will also affect thousands of school places, putting further pressure on local authorities as they carry out their duties to place children in suitable education, and forcing parents and guardians of local children who are of no or the 'wrong' religion to look further afield for their child's schooling.

Current guidance on applying to set up a free school states that 'the limit on faith admissions in particular should make clear the need for you to demonstrate that your free school will appeal to a wide range of parents and pupils, including those of other faiths or none'. It also states that the Department will look for evidence 'that your school will provide for and be attractive to parents and pupils from outside your faith community'. We fully support this guidance and hope it remains, but it is difficult to see how this requirement can work if the faith schools admissions cap is removed.

For these reasons we strongly oppose proposals to lift the 50% faith school admissions cap. The cap is not perfect, but it has had a demonstrable positive impact on improving inclusivity in faith free schools. Rather than expanding religious selection, a government that cared about cohesion would be seeking to create a single admissions system where all state schools are open to children from any background or belief. In our view the 50% faith admissions cap should therefore remain in place.

**Question Twelve: Do you think the proposal is likely to have an impact on equality and/or on those who share a protected characteristic under the Equality Act 2010?**

Negative effect.

**Question Thirteen: Please explain why you answered in this way**

We would question whether the Government has considered the equality impact that the proposals will have not just on ethnic and socio-economic integration but also on religion or belief, and the particular disadvantages that further religious selection would cause to individuals whose religion or belief does not have any religiously selective schools. Please see the answer to question eleven for more details.

## **PART TWO: RELIGIOUS DESIGNATION OF SPECIAL ACADEMIES**

**Question Fourteen: Do you agree with the proposal that special academies should be permitted to have a religious designation?**

Strongly disagree.

**Question Fifteen: Please explain why you answered in this way.**

The consultation says (page 16)



‘Aside from the specific freedoms associated with religious designation, such as relating to the employment of staff and the provision of religious education and collective worship, special academies designated with a religious character remain subject to the same obligations as other special academies and state funded schools to promote community cohesion and integration and to teach a broad and balanced curriculum.’

The ‘asides’ here are very important ones, and cause a great deal of concern. A faith-designated special school will be able to teach religious education (RE) and relationships and sex education (RSE) and carry out collective worship in accordance with its faith. We believe that all state-funded schools should be secular, equally inclusive of all pupils and staff, regardless of religion or belief. However it seems to us to be particularly important that pupils with special educational needs have access to high quality and balanced education, including a balanced and comprehensive relationships education that is free of religious bias. That the admissions process for faith-designated special schools will not be determined by faith is small comfort and indeed opens up further concern about the use of special educational schools to promote a particular faith over other beliefs. Some children and young people with special educational needs may be less able to form their own views on religion or belief, so a biased education would deny them their freedoms. And biased relationships and sex education teaching around, for example, abortion and contraception, could have life-changing consequences.

On employment, a faith-designated special educational needs school will be able to choose or promote staff on the grounds of religion. Aside from more general concerns around being able to discriminate on these grounds, we are also concerned that good candidates with experience in working with SEND children and young people will be overlooked simply because they are of the ‘wrong’ or no religion. This could have a detrimental impact on these young people who deserve the best possible education and teacher, not teachers chosen purely because of their faith.

**Question Sixteen: Do you think these changes would affect how easily local authorities find it to place children and young people?**

It would make it more difficult.

**Question Seventeen: Please explain why you answered in this way.**

Local authorities have to manage the placement, admissions, and appeals process. This change will have an impact on their workload and create additional challenges such as finding spaces for children and young people whose parents or guardians might not want them to attend a faith-designated special school.

**Question Eighteen: Would the designation of a special academy with a religious character affect parents’ choice of which school they prefer their child to attend?**

Yes.





**Question Nineteen: Please explain why you answered in this way.**

Some parents and guardians will not want their child to attend a faith-designated special school, and will seek to avoid these schools in the application process.

**Question Twenty: What are your views on the overall impact of this proposal?**

We have addressed this in Question Fifteen but to repeat: we believe that all state-funded schools should be secular, equally inclusive of all pupils and staff, regardless of religion or belief. However it seems to us to be particularly important that pupils with special educational needs have access to high quality and balanced education, including a balanced and comprehensive relationships and sex education that is free of religious bias. Some children and young people with special educational needs may be less able to form their own views on religion or belief, so a biased education would deny them their freedoms. And biased relationships and sex education teaching around, for example, abortion and contraception, could have life-changing consequences.

**Question Twenty One: Do you think the proposal is likely to have an impact on equality and/or on those who share a protected characteristic under the Equality Act 2010?**

Negative effect.

**Question Twenty Two: Please explain why you answered in this way.**

Again, we would question whether the Government has considered the equality impact of the proposals on religion or belief, and the particular disadvantages that a biased, faith-based education would cause to individuals with special educational needs.

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

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