

## Church and State in the UK

The historical background is essential to understanding the constitutional position of the church in the UK since it has emerged over centuries rather than being anywhere defined in writing. The English church broke away from Rome in the 16th century and the king/queen has ever since been its constitutional head. The Church of England is 'established' - official and involved in all state events. Other denominations and religions were at first barely tolerated or actively persecuted (especially Roman Catholics).

Gradually over the centuries freedom of worship was established for first one then another group. Atheism slowly became tolerated over the last 150 years. There is still a common law offence of blasphemy, although there has been only a handful of cases in the last 100 years. However, it is the basis for banning of videos that are blatantly blasphemous, and this practice has sadly been upheld (because of the existence of the law) by the European Court of Human Rights.

In modern times recognition of human rights treaties and the incorporation of the European Convention on Human Rights into UK law has changed the legal position, consolidating what had by then become recognised rights and freedoms.

The Church of England originally derived much of its wealth from public funds and taxes at a time when the distinction between church and state was far less clear than now. It retained until early last century a right to levy a local 'rate' or tax, itself a commutation of the ancient right of local vicars (priests) to a tithe of local crops. A very few local traces of this sort of privilege survive but they are legal curiosities rather than anything more serious.

There is now no public funding of the Church of England except incidentally through its being bound up in state events. But constitutional links are deeply rooted:

(a) Church of England bishops are appointed by the Queen on the advice of the Prime Minister but based on a shortlist selected by the church;

(b) There are 26 places reserved for the most senior Church of England bishops in the House of Lords - the upper house of Parliament. No other Christian denomination or other religion or institution (barring the most senior judges - another point of current political dispute) has this privilege of automatic representation. Despite strong public support for removing this ex officio right, any change is bound up with overall democratisation of the Lords, which the present Government is plainly unwilling to pursue.

(c) Church of England funds are managed by Church Commissioners who formally include ex officio several government ministers (though they play little active part in the business)

(d) The Church Commissioners are (nominally) answerable to Parliament and their representative (always an MP) answers parliamentary questions.

All other churches, religions - and humanist bodies - are voluntary associations with no special legal standing, save that marriages may be conducted by most churches and (although the law is not uniform for different denominations) these generally count as valid for civil purposes. (However, a declining proportion of marriages take place in church.)

Humanist celebrations of weddings are not valid, and the couple have to register their marriage at a second ceremony at the public Register Office. Current proposals for reform will not remedy this situation, but the BHA is vigorously challenging these proposals by reference to the European Convention on Human Rights.

Churches receive no public funding unless incidentally to aid some particular public objective - but this is rare (if it exists) as regards churches as such. However, religious charities can be and are funded or contracted to provide services in the community, for example homes for children or the elderly.

Christian chaplains are paid for by public funds in the armed forces, prisons and hospitals. At least one Muslim has recently been appointed similarly, and arrangements are generally in place for local non-Christian religious personnel to be called in when needed. Following current representations by the BHA, the beginnings of similar arrangements are being made for humanist advisors

The most important example of this public funding to provide a service is in the school system. Church schools were well established before the first publicly funded schools were established and the latter were under the 1870 Act meant only to fill gaps in the church-provided system. The 'dual system' survives to this day. One in three schools in the publicly funded system in England and Wales is a school owned and run by religious faiths: these account for one in four school places. Almost all of them are Church of England or Roman Catholic: the Catholics have roughly equal numbers of primary and secondary places while the Church of England's provision is concentrated in primary schools. There is a small number of other Christian schools and an even smaller number of Jewish schools. The Muslims, Sikhs and Hindus have recently been allowed a few schools each. However, these minority groups are expanding their provision and the Government's policy is strongly in favour of more faith schools and new ones are opening all the time, especially Church of England secondary schools, often by converting existing 'state' schools. These religious schools fall in two categories:

(i) "voluntary controlled" schools are totally paid for by public funds but have relatively few religious privileges (opt-in denominational religious education, power to require the head and a small number of other teachers to be of the appropriate faith);

(ii) "voluntary aided" schools, where the religious body has to find 10% of the building costs (including major repairs etc) but all other costs (including all running costs) are met from public funds: these have much stronger religious privileges, covering worship, religious instruction, staff appointments etc.

In addition, the Government has recently started fully funding new legally independent schools after their sponsors (usually big businesses but sometimes religious bodies) make an initial contribution of 10%-20% of the capital cost. At least two of these "academies" teach creationism in science lessons and their sponsor - the Emmanuel Schools Foundation - plans five or six more. The Government is unmoved by widespread protests. Other evangelical groups are moving into this field.

In ordinary ("community") schools in the public system - attended by 75% of pupils - the law requires a daily act of religious worship which must be "wholly or mainly broadly Christian", and all pupils must be given religious education, which covers Christianity and the other main world religions but almost invariably (and officially) excludes non-religious lifestyles. Parents are

given the right to have their children excused from either or both the worship and the religious education. These requirements are overseen by local Standing Advisory Councils on Religious Education, and the religious education syllabuses are drawn up (usually following official models) by local Agreed Syllabus Conferences (ASCs). These two local bodies usually have the same membership. Each is composed of sub-groups, of which one (except in Wales) is for the Church of England and one for other denominations and religions. Humanists are banned from appointment to the latter. In practice, there are Humanists on about 40 SACREs/ASCs but almost always as members of one of the other two sub-groups - teachers and the local education authority. There is a current move by the education quango, the Qualifications and Curriculum Authority, to widen religious education, and include non-religious lifestances, by promoting a 'national framework' to guide ASCs.