

House of Commons Education Committee: Multi-Academy Trusts inquiry

Response of the British Humanist Association



25 April 2016

About us

1. The British Humanist Association is the national charity working on behalf of non-religious people who seek to live ethical and fulfilling lives on the basis of reason and humanity. We promote Humanism, support and represent the non-religious, and promote a secular state and equal treatment in law and policy of everyone, regardless of religion or belief. Founded in 1896, we have around 30,000 members and supporters, and over 70 local and special interest affiliates.
2. The BHA has 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 <http://www.humanismforschools.org.uk/>, and our school volunteers programme. We have made detailed responses to all recent reviews of the school curriculum, and submit memoranda of evidence to parliamentary select committees on a range of education issues.
3. The BHA is an active member of many organisations working in education, including the Religious Education Council for England and Wales (REC), National Children's Bureau Sex Education Forum (SEF), the PSHE Association, the Children's Rights Alliance for England (CRAE) and Rights of the Child UK (ROCK).
4. Our primary interests in education relate to issues surrounding state-funded religious schools ('faith' schools), curriculum (in particular RE, PSHE/SRE, citizenship, and science), and collective worship/school assemblies.

Summary

5. As we have expressed to the Committee on previous occasions, we are concerned that without sufficient safeguards the current direction of travel, laid out in the Government's *Educational Excellence Everywhere* white paper, will lead to a large increase in the number of 'faith' ethos Academies in England, as mixed Multi-Academy Trusts (MATs) become a common feature of the system.
6. In order to mitigate this problem, we believe that the powers currently afforded to 'faith ethos' schools, such as the ability to employ senior staff using a religious genuine occupational requirement, or the appointment of governors on religious grounds, should be removed, and reserved only for academies formally designated or registered with a religious character. This would have the effect of removing the category of 'faith ethos' schools altogether, making the system less confusing for parents, more transparent for those who oversee and inspect schools, and less subject to undue religious influence and privilege.

7. We are also concerned that there is currently nothing to stop religious MATs that run former voluntary controlled church schools from introducing faith-based admissions criteria in those schools. To get round this problem, we recommend that such schools be prevented from religiously selective pupils if they had not done so prior to conversion, and short of that, we believe decisions about whether to allow such schools to start religiously selecting should not rest with the MAT, but rather with an independent body – most obviously the Regional School Commissioners.

'Faith ethos' academies

8. Whilst the BHA does not take a view on the merits or otherwise of Academies and Academisation in general, we have been concerned about the status of 'faith ethos' Academies and Free Schools for some time. These are Academies and Free Schools that are not legally registered as having a religious character, but nonetheless are run by an organisation (more often than not a MAT) with a religious ethos. As such, that organisation is entitled to exert control over certain aspects of governance, employment, and the curriculum at the school on the basis of their religion.
9. In the maintained sector, a school that wishes to set their admissions arrangements, employ staff, appoint governors or set aspects of their curriculum on the basis of their religion, must be formally designated as having a religious character.ⁱ It is also the case that Academies and Free Schools, if they wish to have the fullest available control in these areas, must also be formally registered or designated.ⁱⁱ
10. However, since Academy sponsors (whether they be single or multi-academy trusts) enjoy a large number of freedoms to influence their schools previously unavailable to the governing bodies of maintained schools, faith groups that do not formally register their schools as having a religious character are still afforded significant control over them. For instance, these 'faith ethos' schools may religiously select governors; use a religious genuine occupational requirement in appointing senior staff;ⁱⁱⁱ put a religious slant on some parts of the curriculum, such as sex and relationships education (SRE);^{iv} and also imbue the school with a distinct religious ethos which may pervade various aspects of school life.
11. Given this, it is concerning that an Academy can gain or lose a 'faith ethos' at any time simply through a change in ownership or, when converting from being a local authority maintained school, by way of the trust that sponsors it having a religious character or ethos. The latter of these two scenarios is of particular concern in view of the recent proposals to require all schools to become Academies, especially considering that there are already cases of these problems arising.
12. Just earlier this year, for instance, it was revealed that a Church of England-led Academy trust in Newcastle will assume control of four schools with no religious character if proposals go ahead for them to merge with a single voluntary-aided Church of England primary school.^v The merge means that the local Diocese will fill a majority of the seats on the board of the newly-created mixed MAT, in line with Regulation 14 of the School Governance (Constitution) (England) Regulations 2012.^{vi} Furthermore, just last year it was announced that the Tauheedul Education Trust, which runs a number of Muslim Academies around the country, will gain control over three community secondary schools in Blackpool and Bradford, resulting in a similar situation.^{vii} Perhaps unsurprisingly, both these moves have been met with significant opposition in their respective local areas.

13. It seems evident to us that a MAT comprising five schools, four of which do not have a religious character, should not be subject to majority control by a religious organisation simply because one of the schools in the MAT happens to be a ‘faith’ school. And whilst the imbalance is particularly pronounced in this former case, it also strikes us as inappropriate for three schools, or even just one, to be run by a religious organisation when they have had no previous religious character, regardless of how outnumbered these schools might be by those schools that do share the religious character of the trust.
14. Given that the Government’s recent white paper is likely to lead to more schools in MATs in the future and a resultant exacerbation of this problem, we believe it is both prudent and necessary to use the upcoming bill to remove the ill-conceived and confusing ‘faith ethos’ category altogether, and return to the situation prior to the introduction of Academies when there were simply either designated religious schools or school with no religious character. To achieve this, we would recommend that steps are taken either to bar religious MATs from sponsoring schools with no religious character (and vice versa), or, at the very least, to prevent religious MATs from using a genuine occupational requirement in the employment of staff and the appointment of governors at such schools.
15. However, if these safeguards are not introduced, and we believe it would be disastrous if they were not, there must at least be clarity as to which schools have a ‘faith ethos’. Unfortunately, that is not currently the case as the government does not record the ‘faith ethos’ of academies. As of 2012, the government now records which Free School applications will have a ‘faith ethos’,^{viii} but the same was not true prior to 2012 and, crucially now, is not true of academies that were formerly maintained schools.^{ix} It is unclear, therefore, whether the government knows which schools are which on this score and it is certainly not known to the public. If a parent is to make informed choices about the schooling of their child, it seems only right that they should know whether a school has a particular religious character or not, or if it is subject to the influence of a religious organisation.
16. We would also note that the Education and Adoption Act 2016, given royal assent last month, contains no provision for any consultation with the local community as to the identity of an Academy sponsor in the case of a ‘coasting’ maintained school being forced to convert.^x This means that parents with children already at the school, those with children at feeder schools, those with children at other potentially affected schools in the area, and so on, are left in the situation of possibly having their local school taken over by a religious organisation without any input whatsoever. There is also no requirement to consult with teachers.
17. Whilst it is now too late to correct this in the case of schools ‘eligible for intervention’, we are concerned that the ‘intervention’ entailed by the recent white paper may lead to a similar situation going forward, quite possibly on a much wider scale. Section 4.7c of the white paper states that ‘in local authority areas which are underperforming or where the local authority no longer has capacity to maintain its schools we will take new powers to ensure schools become academies to a faster timescale’. And Section 4.7d adds ‘where schools are not academies or have not started the process by 2020, we will take steps to direct them to become academies so that by 2022 we will have brought a definitive end to the role of local authorities in maintaining schools.’
18. Further details as to what these ‘new powers’ and ‘steps’ will be have not been provided at this stage, but whilst we recognise the Government’s desire to ‘streamline’ the conversion

process, we believe that limitations on the requirements for consultation in line with those in the Education and Adoption Act would fail to provide an adequate safeguard against a school acquiring a ‘faith ethos’ against the wishes of parents and the wider local community. And given the number of schools that may well find themselves subject to the two sections of the white paper above, either in the near future or come 2020, this is of significant concern.

19. Lastly, we note that the Church of England and the Catholic Church are, by some distance, the largest and oldest providers of schools aside from local authorities, and diocesan MATs thus tend to be in the strongest position to sponsor schools that have been ordered or are being encouraged to convert (i.e. every school in England). It does not seem unreasonable to suggest, therefore, that the provisions contained within the white paper may well lead to a significant increase in the number of schools with no religious character which, with no input (or even support) from the local community, convert to become ‘faith ethos’ academies.

Religious selection in school admissions

20. The point drawn out in this inquiry’s terms of reference concerning the role of Regional Schools Commissioners (RSCs) is an important one, and the recent white paper points to an expansion of their role as full Academisation progresses. We believe that the RSCs could/should play a role in the school admissions system, if not acting as the admission authorities for all the schools in their regions (this would likely be impracticable), then at least having some input or control over the kind of admission policies schools are able to employ, particularly when it comes to the use of religious selection.
21. Currently, and in contrast to the arrangements for voluntary aided schools, local authorities act as the admission authorities for VC church schools, and the decision as to whether or not to allow the school to adopt faith-based oversubscription criteria therefore rests with the LA. Happily, the vast majority of LAs do not allow their VC schools to religiously select, and, indeed, there is little evidence to suggest that the governing bodies of the majority of these schools have any particular appetite to do so.
22. However, in the event of conversion to an Academy, VC schools become their own admissions authorities and, by way of the Schedule 11 exemptions contained within the Equality Act 2010,^{xi} are entitled to start religiously discriminating in their admissions, even if they hadn’t done so before. There is currently no protection in place that prevents this from happening, nor are the governing bodies at individual school level able to resist such a change if the trust’s board demands it. This is problematic.
23. Of course, we do not pretend that there will necessarily be an immediate surge in VC schools introducing religious admissions criteria, but the simple fact that the option to do so exists provides no assurances that this will not happen in the future. Indeed, one cannot escape the fact that MATs are under a great deal of pressure to maintain and improve the performance of their schools, and given the evidence that religious selection leads to more affluent, more promising intakes, it does not seem unreasonable to suspect that some religious MATs may, down the line, see introducing religious selection as the easiest way to boost performance.
24. There are currently just over 2,000 VC church schools in England, equivalent to over 10% of the total number of state-funded schools, all of which will be Academies by 2022 and all of which will have the freedom to religiously select children by that time. Reiterating that we

would not expect all or perhaps even most of these schools to start religiously selecting after converting, we are extremely concerned that without sufficient safeguards, a significant increase in the number of schools places in England that are subject to religious discrimination may well be in store.

25. In the context of this particular consultation, we therefore recommend that decisions about whether or not to allow schools to start religiously selecting after conversion do not lie with the MAT, but rather with some other body independent of the school – most obviously the local authority, Regional Schools Commissioners, or the Department for Education. This would mitigate the risk that MATs might act on the perverse incentive to manipulate their intakes in the way outlined above, and also allow the DfE and RSCs to better control the level of inclusiveness in the school system locally, regionally, and across the country as a whole.
26. Beyond this, we ultimately believe that schools which were not able to or did not religiously select their pupils prior to conversion should not be allowed to religiously select as Academies, though we recognise that this recommendation is possibly beyond the scope of this inquiry.

For more details, information and evidence, contact the British Humanist Association:

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ⁱ For religious designation of maintained schools, section 5 of *The Religious Character of Schools (Designation Procedure) Regulations 1998* – <http://www.legislation.gov.uk/uksi/1999/2432/made>

ⁱⁱ For religious designation of Academies and Free Schools see [section 124B of the School Standards and Framework Act 1998](#) or (if the Academy is a converter faith school) see [section 6\(8\) of the Academies Act 2010](#).

ⁱⁱⁱ In January 2012 Julian Huppert MP asked a parliamentary question to confirm this is possible; see the last paragraph of Schools Minister Nick Gibb's answer at <http://www.theyworkforyou.com/wrans/?id=2012-01-23a.90376.h>

^{iv} Freedom of the curriculum depends on what the Department for Education are willing to agree to when negotiating a funding agreement. For RE and collective worship, the rules in the model funding agreement are the same as those for maintained schools, i.e. RE must be religiously neutral, and collective worship must be Christian. For PSHE and SRE, there is very little that is required, so schools can teach what they like. For other curriculum subjects, it depends upon what the government considers 'broad and balanced', and what Ofsted would be happy with when inspecting a school. The relatively recent requirement that Academy Trusts are precluded from 'the teaching, as an evidence-based view or theory, of any view or theory that is contrary to established scientific and/or historical evidence and explanations' is another limit.

^v *Church of England Diocese in 'takeover of primary schools with no religious character'*, BHA, March 2016: <https://humanism.org.uk/2016/03/10/church-of-england-diocese-in-takeover-of-primary-schools-with-no-religious-character/>

^{vi} <http://www.legislation.gov.uk/uksi/2012/1034/regulation/14/made>

^{vii} *Tauheedul Education Trust set to takeover non faith schools in Blackpool and Bradford*, Schools Week, October 2015 <http://schoolsweek.co.uk/tauheedul-education-trust-set-to-takeover-non-faith-schools-in-blackpool-and-bradford/>

^{viii} As of 2012, the mainstream free school application form asked first, 'Do you intend that your proposed school will be designated as having a religious character?' and then, 'Do you intend your proposed school to

have a faith ethos (but will not be designated as having a religious character)?'

<http://media.education.gov.uk/assets/files/pdf/a/application%20form%20-%20mainstream.doc>

^{ix} In January 2012 the BHA submitted a Freedom of Information request to the Department for Education asking them if they knew which schools have a 'faith ethos', and if so, to list them. The department replied saying that they did not know. See <https://humanism.org.uk/2012/04/18/news-1022/>

^x <http://www.legislation.gov.uk/ukpga/2016/6/section/4/enacted>

^{xi} <http://www.legislation.gov.uk/ukpga/2010/15/schedule/11>