
CHILDREN'S RIGHTS ALLIANCE FOR ENGLAND CALL FOR EVIDENCE ON STATE OF CHILDREN'S RIGHTS 2017

Response from Humanists UK, August 2017

SUMMARY

In response to the call for evidence, we raise the following issues with the area of **Education**.

- Faith school admissions, specifically in reference to Government proposals to end limits on the use of religious selection by free schools.
- Relationships and Sex Education (RSE), and concern that faith schools may be entitled to teach a narrow and discriminatory version of RSE due to an exemption in law.
- Illegal religious schools, with a focus on the failure of relevant authorities in 2017 to address what are flagrant violations of the rights of the children within them.

FAITH SCHOOL ADMISSIONS

State-funded schools designated with a religious character are legally able to discriminate against children on the basis of their own or their parents' religion when deciding which children to admit. There are specific exemptions in the Equality Act 2010 that allow such schools to do this,¹ and as a result 16% of all places at state schools in England are subject to religious discrimination in this way. This amounts to 1.2 million places, more than the number of places at private, single-sex, and grammar schools combined.

50% cap on religious selection at Free Schools

Since 2007, all new religious academies and free schools have been restricted to selecting up to half of their pupils on the basis of religion as part of their admission arrangements. This is commonly referred to as the '50% cap'.² The remaining 50% of places must be kept open to all local children, irrespective of religion and belief, so as to ensure both that local parents retain access to their local schools and that schools promote integration between those from different religious and non-religious backgrounds.

Last year, the Government announced that it intends to remove this 50% cap and allow new and existing religious free schools to select all of their places with reference to religion.³ Not only does this move contravene the available evidence demonstrating that the cap has been effective in improving fair access and integration, it also extends

¹ Schedule 11(5) Equality Act 2010:

<http://www.legislation.gov.uk/ukpga/2010/15/schedule/11/paragraph/5>

² *Free School admissions: guidance*, Department for Education (December 2014):

<https://www.gov.uk/government/publications/free-schools-admissions>

³ *PM sets out plans for schools that work for everyone*, Prime Minister's Office, September 2016:

<https://www.gov.uk/government/news/pm-to-set-out-plans-for-schools-that-work-for-every-one>

religious discrimination in the school admissions system in a way that threatens children's rights under the UNCRC.

Religious selection, whether capped at 50% of places or not, clearly violates the Article 2 rights of children in discriminating either on the basis of their own beliefs or on the basis of their parents' beliefs. It is also contravenes Article 14 (as indeed does the existence of faith schools more generally) since the right of children to be independent and hold different beliefs to their parents is severely limited by the ability of faith schools to define and discriminate against children based on parental belief and practice. Such selection based first and foremost on the beliefs of parents rather than on the beliefs of children fails to respect the right of children to hold their own beliefs.

It is also worth mentioning with regard to the 50% cap that whilst its removal will have a detrimental effect on the rights of children from all backgrounds, it is likely to have a disproportionately detrimental impact on minority ethnic children, specifically those from Asian backgrounds. Research conducted by Humanists UK using official data has revealed that religious free schools are significantly more accessible to children from Asian backgrounds than are religious schools that select all of their places with reference to religion. Indeed, at Christian free schools opened under the cap, 18% of pupils are from Asian backgrounds, but that figure is just 5% at Christian schools that religious select all of their pupils.⁴ Removing the cap - instead of extending it to all schools - would therefore have the effect of denying tens or even hundreds of thousands of non-white pupils access to state-funded schools at which they might otherwise have been able to attend.

It is also noteworthy that in August 2017 the Department for Education published research that it had commissioned into the relative benefits of mixed versus segregated schools. The study, which examined the contact between young people from White-British and Asian-British pupils at secondary schools in Oldham, assessed the extent to which mixing in school can 'improve both attitudes towards outgroups and intergroup relations.' It found that 'attitudes were more positive and, as would be expected, mixing was more frequent in mixed than segregated schools', and that 'mixed schools do result in more social mixing between ethnic groups over time, and mixing is reliably associated with more positive views of the outgroup.'⁵ It is hard to imagine that a Government could publish such research and still push ahead with plans that would increase the amount of segregation in the education system. But a u-turn on the proposals has not yet been forthcoming.

Furthermore, it is well-established that religious selection does not simply have the effect of discriminating on the basis of religion and, by extension, ethnicity, but also on the basis of socio-economic status. Last year the Education Policy Institute conducted research to assess the merits of the Government's proposal to drop the 50% cap on religious selection. The report noted that, as a result of selective admission

⁴ *Ethnic diversity in religious free schools*, Humanists UK, September 2016:

<https://humanism.org.uk/wp-content/uploads/2016-09-15-FINAL-Ethnic-diversity-in-religious-Free-Schools.pdf>

⁵ *Diversity and Social Cohesion in Mixed and Segregated Secondary Schools in Oldham*, Department for Education, August 2017:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/634118/Diversity_and_Social_Cohesion_in_Oldham_schools.pdf

arrangements, faith schools 'educate a lower proportion of disadvantaged children'.⁶ The Sutton Trust conducted similar reactive research earlier this year, concluding that lifting the 50% cap is 'likely to make [faith schools] even more unrepresentative of their local areas, reducing the number of good school places available to pupils across the socio-economic spectrum. The admissions process for faith schools should instead be opened up so that their admissions are fairer and begin to reflect their local population.'⁷ A move to scrap the 50% cap would therefore only increase such socio-economic discrimination and further deprive children from poorer backgrounds of the rights that their more affluent peers enjoy.

Recommendation: The 50% cap on religious selection at free schools should be kept in place, and consideration should be given to extending the cap to all state-funded schools (with a view to ultimately ending religious selection altogether).

RELATIONSHIPS AND SEX EDUCATION (RSE)

In April 2017 the Children and Social Work Act was signed into law, introducing compulsory relationships and sex education (RSE) in all English secondary schools and compulsory relationships education in all English primary schools.⁸ The content of these two subjects will be set out by the Secretary of State for Education in regulations and guidance later this year.

However, despite these provisions applying to all schools in England, section 34(3)(b) of the Act requires that 'when relationships education or relationships and sex education is given - the education is appropriate having regard to the age and religious background of the pupils.' And in a written ministerial statement clarifying the legislation, the Department for Education stated that 'faith schools will continue to be able to teach in accordance with the tenets of their faith'.⁹

All the evidence suggests that high-quality SRE leads to the best outcomes in terms of improving sexual health, reducing unwanted pregnancy, challenging gender stereotypes, educating about consent, protecting children from abuse, and tackling homophobic and transphobic bullying.¹⁰ Given the benefits of RSE to the wellbeing of pupils, it is simply not appropriate to be providing it to some whilst denying it to others.

Furthermore, relationships and sex education is concerned with equipping children to engage in respectful relationships, to challenge and be resilient to damaging gender stereotypes and other discriminatory attitudes, and ultimately to stay safe and healthy. As such, it must be relevant to them and to the choices they are free to make irrespective of their religious or non-religious background. Clearly, if RSE in all types of schools is not fully LGBT-inclusive, if it withholds information or passes judgment on the various forms of family relationship, or if it presumes the availability of only a limited

⁶ *Faith schools, pupil performance, and social selection*, Education Policy Institute, December 2016: <http://epi.org.uk/report/faith-schools-pupil-performance-social-selection/>

⁷ *Selective Comprehensives 2017*, Sutton Trust, March 2017: <https://www.suttontrust.com/research-paper/selective-comprehensives/>

⁸ *Section 34, Children and Social Work Act 2017*: <http://www.legislation.gov.uk/ukpga/2017/16/section/34/enacted>

⁹ *Sex and Relationships Education: Written Statement*, Department for Education, March 2017: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Lords/2017-03-01/HLWS511/>

¹⁰ *SRE - the evidence*, Sex Education Forum, 2015: www.sexeducationforum.org.uk/media/28306/SRE-the-evidence-March-2015.pdf

range of options for staying safe within relationships, sexual or otherwise, then it fails children and young people.

Our view, therefore, is that a child's access to accurate, evidence-based information about relationships and sex should not be determined by their religious or non-religious background, nor by the type of school to which they happen to have been sent or allocated. If children have a right to comprehensive, age-appropriate RSE, as we maintain they do under articles 24(e), 28, and 29 of the UNCRC, then all children must have access to it. To allow certain types of school to opt out of this teaching, as is proposed, is either to declare that no such right exists, or to endorse the widespread violation of that right.

Recommendation: The Government should make clear that regardless of the religious character of the school, RSE must be taught in line with the Equality Act 2010 and provide students with comprehensive, accurate, and unbiased information about contraceptives, STIs, abortion, gender identity, and sexual orientation, among other topics.

ILLEGAL RELIGIOUS SCHOOLS

It is now well-known that a significant number of unregistered, illegal schools are operating throughout England, and it is equally well-known that many of these settings are religious in character. Such settings serve a variety of different religious communities, including Muslim, Jewish, and Christian communities – all of which in some respect tend towards a fundamentalist, extreme, or isolationist outlook.¹¹

The educational experience within these illegal schools represents a grave threat to the rights of the children within them. To take the unregistered schools serving boys in the 'strictly Orthodox' Charedi Jewish community as an example, both personal testimony from former pupils and (rare) Ofsted inspection reports¹² reveal that the education in these full-time 'yeshivas' is confined almost entirely to scriptural study. No, or almost no, 'secular education' is provided in subjects such as English, Maths, and Science (nor is any time dedicated to physical education or activity). As a result Charedi boys often finish their education completely ignorant to, and unprepared to exist in, the outside world, making it almost impossible for them to leave their communities. In addition, there is almost no effort to teach children about other cultures or religions, and where such teaching does exist, the information provided to children is often not accurate and is designed to encourage a negative opinion of those outside their immediate community. The schools themselves tend to be housed in entirely unsuitable buildings,¹³

¹¹ *Ofsted to throw the book at rogue faith schools*, Sunday Times, July 2017:

<https://www.thetimes.co.uk/edition/news/ofsted-boss-to-throw-the-book-at-rogue-faith-schools-whether-jewish-christian-or-islamic-pgsnw6rtm>

¹² Pre-registration inspection reports for Talmud Torah Tashbar, Ofsted, 2013–2015:

<https://humanism.org.uk/wp-content/uploads/Talmud-Torah-Tashbar-pre-registration-inspection-reports-2012-14.pdf>

¹³ *Revealed: Pupils' lives at risk after fire safety breaches at illegal schools*, Schools Week, June 2017:

<http://schoolsweek.co.uk/revealed-pupils-lives-at-risk-after-fire-safety-breaches-at-illegal-schools/>

the school day lasts significantly longer than is normal, often in excess of 12 hours, and former pupils report widespread abuse and physical punishment.¹⁴

Similar situations are known to exist in certain Muslim communities, too, where Ofsted has previously reported that illegal schools are teaching 'misogynistic, homophobic and anti-Semitic material' and 'narrow' curriculums 'failing to prepare [pupils] for life in modern Britain'.¹⁵

So, to draw only on the summary of the educational experience within illegal schools given above, it is easy to identify a wide range of rights that are violated by the current situation. These include, though are not limited to: the right for the institutions and facilities responsible for children's care to conform with standards established by competent authorities, as enshrined in Article 3(3); the rights corresponding to the state's duty to ensure to the maximum extent possible the development of children, as enshrined in Article 6; the right of the child to form and freely express their own views in matters concerning the child, as enshrined under Article 12; the right to freedom of expression, including freedom to seek, receive, and impart information and ideas of all kinds as enshrined in Article 13; the right to freedom of thought, conscience, and religion enshrined in Article 14, which includes the right to manifest one's beliefs; the right to protection from physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, as enshrined in Article 19; the right, of course, to education enshrined in Article 28, and for that education to be directed towards 'the preparation of the child for responsible life in a free society', as enshrined in Article 29; and the right to leisure, and to engage in play and recreational activities and participate freely in cultural life, as enshrined in Article 31.

There can be few other children in England whose rights are violated to this extent.

Despite this situation, however, very little has been done in 2017 (or in preceding years) by the relevant authorities. For instance, in January 2016 the Government consulted on proposals to require all supplementary schools providing more than six to eight hours of education a week to individual children to register with the DfE, meet certain regulatory standards, and face periodic inspection.¹⁶ The proposals would have the effect of preventing illegal schools from masquerading as supplementary schools to avoid Ofsted inspection and the need to register, something which Ofsted has said is very common. Unfortunately, the Government has yet to respond to the consultation, some 18 months after it closed, and legislation to this effect was not included in the Queen's Speech in June 2017. In a meeting with Humanists UK in August 2017 the Department for Education confirmed that the proposals would not therefore be brought forward within at least the next two years. Disappointingly, the proposals were dropped largely as a result of lobbying by the Church of England (and the Catholic Education Service),

¹⁴ *Physical punishment was commonplace at the atmosphere was one of perpetual fear*, Faith Schoolers Anonymous, May 2016:

<https://faithschoolersanonymous.uk/2016/05/life-in-a-charedi-school/>

¹⁵ *Unregistered schools: Ofsted advice notes*, Sir Michael Wilshaw HMI, 2015-6:

<https://www.gov.uk/government/publications/unregistered-schools-ofsted-advice-note>

¹⁶ *Out-of-school education settings: call for evidence*, Department for Education, November 2015:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/480133/out_of_school_education_settings_call_for_evidence.pdf

despite the fact that any regulations would be unlikely to affect Sunday schools.¹⁷ This decision ignores the advice of Ofsted, which has consistently called for greater powers to tackle illegal schools,¹⁸ and leaves the children in illegal schools with little hope that their situation might improve.

Recommendations: The Department for Education, with the help of Ofsted and relevant local authorities, should move to immediately shut down any school found to be operating illegally. The Government should also introduce a system of registration and inspection for out-of-school settings, as proposed in 2015/16, and make provisions for a register of homeschooled children too so as to better identify children who may be missing education.

ABOUT HUMANISTS UK

At Humanists UK, we want a tolerant world where rational thinking and kindness prevail. 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 by over 65,000 members and supporters to promote humanism.

Humanists UK 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).

We have representative status in our own right at the UN Human Rights Council, where we make regular interventions in support of freedom of speech, thought, conscience, and religion or belief globally, as well as in support of LGBT rights, children's rights, sexual and reproductive health, and more.

Our primary interests in education pertain to issues related to state-funded religious schools (faith schools), curriculum issues (in particular RE/RS, PSHE/SRE, citizenship and science), and collective worship/school assemblies.

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

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¹⁷ *Government reportedly dropped illegal religious school regulation following Church of England lobbying*, Humanists UK, July 2017:
<https://humanism.org.uk/2017/07/26/government-reportedly-dropped-illegal-religious-school-regulation-following-church-of-england-lobbying/>

¹⁸ *Ofsted Chief Inspector demands new powers to tackle illegal religious schools*, Humanists UK, July 2017:
<https://humanism.org.uk/2017/07/03/ofsted-chief-inspector-demands-new-powers-to-tackle-illegal-religious-schools/>