

STAKEHOLDER REPORT TO INFORM THE UN COMMITTEE ON THE RIGHTS OF THE CHILD'S 'LIST OF ISSUES PRIOR TO REPORTING'

KEY ISSUES

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ON BEHALF OF: Northern Ireland Humanists

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ABOUT NORTHERN IRELAND HUMANISTS

Northern Ireland Humanists is part of 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 over 85,000 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 website¹ 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, MLA's, 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.

KEY ISSUES

Issue: Religious segregation in the school system

Context: The Committee recommended during its last review that the Northern Ireland Government should 'actively promote a fully integrated education system and carefully monitor the provision of shared education... to ensure that it

¹ Understanding Humanism (2020) <<https://understandinghumanism.org.uk/>> [accessed 21 September 2020].

facilitates social integration'.² But despite this, most Protestants and Catholics are still educated apart from one another. This represents a considerable barrier to social cohesion and threatens the freedom of religion or belief of pupils educated in this segregated system.

Evidence:

Segregation of pupils:

Integrated schools work hard to balance the proportion of pupils from each community they serve, aiming at 40% Catholic, 40% non-Catholic (Protestant) and 20% other.³ However, according to the most recent figures, only 6% of primary pupils are educated in integrated schools, a figure that rises to just 16% in non-grammar secondary schools.⁴ Just 695 Protestant pupils attend Catholic maintained primary schools, representing less than 1% of the 78,967 pupils who attend such schools. In the post-primary sector, this number has been suppressed.⁵ This is presumably because the number is so low that it would be possible to identify specific pupils if it were published. In the controlled sector, which, while nominally open to pupils from all backgrounds, primarily serves the Protestant community, just 8% of primary pupils are Catholic and, in controlled non-grammar secondaries, this figure drops to 4%.⁶

In addition to the long-running separation of Catholic and Protestant families that is evident in the system, it is also worth noting that pupils from other Christian backgrounds, as well as those with minority faith or non-religious backgrounds, are more likely to attend integrated or controlled schools. They account for just 4.5% of pupils attending Catholic primaries and an even lower proportion of those at post-primary Catholic schools (the exact number has, once again, been suppressed). This means that, alongside being unlikely to meet those of other religions, children who attend schools in the Catholic sector are also less likely to meet children from other ethnic backgrounds.

Admissions

We note that, unlike in England and Wales where religiously selective admissions policies are explicitly permitted and play a pivotal role in school segregation,⁷ the

² 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), para. 72 (e) <<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhskHOj6VpDS%2F%2FJgg2Jxb9gncnUyUgbnuttBweOlylfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxij3uZ0biQBOLNTNvQ9fUIEOvA5LtW0GL>> [accessed 16 September 2020].

³ Interestingly, only the Grant Maintained Integrated secondary sector achieves this precise balance (with 38% Protestant, 40% Catholic, and 22% other). In the other types of integrated school, pupils from other faith and belief backgrounds actually account for closer to 30% of the school population, rising to 37% at Controlled Integrated primary schools (see Northern Ireland Statistics and Research Agency, *Annual enrolments at schools and in funded pre-school education in Northern Ireland 2019-2020* (March 2020), Table 5 <<https://www.education-ni.gov.uk/sites/default/files/publications/education/revise%203rd%20March%202020%20-%20Annual%20enrolments%20at%20schools%20and%20in%20pre-school%20....pdf>> [accessed 18 September 2020].

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Humanists UK, 'State-funded faith schools' <<https://humanism.org.uk/campaigns/schools-and-education/faith-schools/>> [accessed 20 September 2020].

fact that children from different communities attend separate schools in Northern Ireland is largely the result of self-selection. In other words, families from different religious communities tend to choose schools which have an ethos that aligns with their own faith background. However, while many Catholic schools do not make explicit reference to religion in their admissions criteria, some do give preference to pupils for whom the school is the nearest Catholic school. Furthermore, policies that favour pupils whose family members have previously attended a school are likely to act as a proxy for religious selection because they ensure that members of the groups who traditionally attended a school in the past are prioritised over those without such a history (i.e. newcomer pupils or those from other backgrounds).

Research from England demonstrates that, in addition to separating children according to faith background and exacerbating community divisions, admission by religion leads to selection along socioeconomic lines. Evidence from the Fair Admissions Campaign shows that, overall, comprehensive secondaries with no religious character admit 5% more pupils eligible for free school meals than live in their local areas. But comprehensive Church of England secondaries admit 15% fewer; Roman Catholic secondaries 28% fewer; Jewish secondaries 63% fewer; and Muslim secondaries 29% fewer.⁸

Similarly religious admissions policies have been shown to segregate along ethnic lines, with Catholic schools in England taking 4.4 percentage points fewer Asian pupils than would be expected given the make-up of their local areas.

Shared Education

In 2016, the Committee recommended that the Government ‘carefully monitor’ the provision of shared education, which, according to the Shared Education Act introduced that same year, ‘means the education together of —

- (a) those of different religious belief, including reasonable numbers of both Protestant and Roman Catholic children or young persons; and
- (b) those who are experiencing socio-economic deprivation and those who are not,

which is secured by the working together and co-operation of two or more relevant providers.’⁹

The Act, which places a duty on the Department of Education to ‘encourage, facilitate and promote shared education,’¹⁰ does appear to have some success in increasing the number of schools and pupils involved in Shared Education projects. According to the Department’s most recent ‘Advancing Shared Education’ report to the Northern Ireland Assembly, as of June 2019, 61% of Northern Ireland’s primary, post-primary, and special schools were involved in

⁸ Fair Admissions Campaign, ‘Overview of issues to do with religious selection’ <<http://fairadmissions.org.uk/wp-content/uploads/2015/09/Overview-of-issues-to-do-with-religious-selection-in-school-admissions.pdf>> [accessed 20 September 2020].

⁹ Shared Education Act (Northern Ireland) 2016, Sec. (2)(a) and (2)(b) <<https://www.legislation.gov.uk/ni/2016/20/section/2>> [accessed 20 September 2020].

¹⁰ Ibid. Sec. (3).

some form of Shared Education, with 408 more schools participating than was the case in June 2016.¹¹ 87,385 pupils, a quarter of the school population across these phases, are now engaged in such sharing.¹² However, given the separation noted above, this number is clearly not high enough. Just under a third of schools do not engage with Shared Education at all and one of the reasons given by such schools for this is an overarching ‘reluctance’ to participate in Shared Education programmes.¹³ Furthermore (as discussed in more detail below), there is evidence to suggest that Shared Education programmes are not as effective at promoting social mixing as fully integrated schools.

Segregation among teachers:

The distribution of teachers in Northern Ireland’s schools follows very similar patterns of community segregation to that of pupils, meaning that children from Catholic backgrounds are generally taught by Catholic teachers, and children from Protestant backgrounds by Protestant teachers. Indeed, research conducted by the UNESCO Centre at Ulster University in 2018 found that only 2% of teachers working in Catholic maintained primaries had themselves been educated in controlled (mainly Protestant) primary schools, and 7% of those employed at controlled schools had attended Catholic primary schools.¹⁴ In the post-primary sector, 8% of those teaching at Catholic maintained schools had attended controlled primary schools and 17% of those teaching in controlled schools had been educated in primary schools with a Catholic ethos. In grammar schools those figures were 17% for teachers in Catholic schools and 23% for teachers in controlled schools.¹⁵

By comparison, the proportion of teachers from each community teaching at integrated schools largely reflects their targeted pupil composition; namely, 40% Catholic, 40% Protestant (‘Non-Catholic’), 20% ‘other’.¹⁶

Segregation among teachers is caused by a number of factors, however, it is exacerbated by the fact that teacher employment is excluded from the Fair Employment and Treatment (Northern Ireland) Order (FETO) 1998¹⁷ and – uniquely across Europe – the European Employment Directive¹⁸ meaning that teachers can be recruited on religious grounds. In addition, many trainee teachers from the Catholic and Protestant communities attend a teacher training college associated with their own denomination. And, owing to the fact that teachers of RE in Catholic schools are required to have a Certificate in Religious

¹¹ Department of Education, *Advancing Shared Education: 2nd Report to the Northern Ireland Assembly* (June 2020) para. 7.4 <<https://www.education-ni.gov.uk/sites/default/files/publications/education/Shared%20Education%202nd%20Report%20to%20Assembly%20June%202020.PDF>> [accessed 21 September 2020].

¹² Ibid.

¹³ Ibid. para. 5.21.

¹⁴ Matthew Milliken, *Employment Mobility of Teachers and the FETO Exception* (April 2019), p.1 <https://www.ulster.ac.uk/_data/assets/pdf_file/0003/409458/TEUU-Report-01-Feto.pdf> [accessed 19 September 2020].

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ The Fair Employment and Treatment (Northern Ireland) Order 1998, 71 (1) <<https://www.legislation.gov.uk/nisi/1998/3162/article/71/made>> [accessed 19 September 2020].

¹⁸ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (2000), Chapter III, Article 15, 2. <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078>> [accessed 21 September 2020].

Education that meets criteria laid down by the Irish Catholic Bishops' Conference,¹⁹ mobility between sectors is particularly difficult for non-Catholics. This is especially the case for primary teachers who are expected to teach all of the subjects on the curriculum.

Segregation on governing bodies:

The tendency for teachers to be employed in schools that educate children from the same background as their own is further compounded by the composition of governing bodies.

In controlled schools, places on Boards of Governors are legally reserved for representatives of three Protestant denominations (the so-called 'Transferors' – the Church of Ireland, the Presbyterian Church, and the Methodist Church). In Catholic maintained schools, the Catholic Church also has a guaranteed proportion of governors. These governors will often sit on interview panels which, in many cases, will be entirely composed of those from one denomination.

A recent report by the UNESCO Centre at Ulster University argues that the 'denominationally specific' composition of Boards further embeds community division in schools. This is not only because 'vested denominational interests' work against the drive for a system of common schooling, but because, 'consciously or unconsciously,' the interview panels these boards generate are likely to favour candidates from the same denomination, thus replicating existing demographics and meaning that the children attending these schools are denied contact with teachers from a diverse range of backgrounds.

Harms caused by segregation:

There is a wealth of robust evidence²⁰ to suggest that positive contact of the kind that happens in diverse schools is pivotal to community cohesion. For example, research conducted by Professor Miles Hewstone and a team from the University of Oxford found that pupils in ethnically mixed schools are more trusting and have more positive views of children from different backgrounds than do pupils in segregated schools.²¹ Elsewhere, the authors of that same study argue that 'faith schools, to the extent that they are segregated, deprive young people of the opportunity to mix across ethnic and religious lines' in a manner that thwarts positive attitudes to members of so-called 'outgroups'.²²

In the context of Northern Ireland, research shows that, while mixing improves intergroup relations, even when single ethos schools have a more diverse pupil

¹⁹ See Matthew Milliken, *The Certificate in Religious Education*, Transforming Education, Briefing Paper 4 (March 2020) <https://www.ulster.ac.uk/data/assets/pdf_file/0009/536553/Briefing-Paper-The-Certificate-in-Religious-Education.pdf> [accessed 19 September 2020].

²⁰ For an overview see <<http://accordcoalition.org.uk/research/>> and <<http://fairadmissions.org.uk/wp-content/uploads/2017/08/2017-08-29-FINAL-Religious-Selection-Research-Survey.pdf>>

²¹ Miles Hewstone et al. *Diversity and Social Cohesion in Mixed and Segregated Secondary Schools in Oldham* (2017) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/63418/Diversity_and_Social_Cohesion_in_Oldham_schools.pdf> [accessed 15 May 2020].

²² Miles Hewstone et al. 'Influence of segregation versus mixing: Intergroup contact and attitudes among White-British and Asian-British students in high schools in Oldham, England' *Theory and Research in Education* (2018) Volume: 16 issue: 2, page(s): 179-203 <<https://journals.sagepub.com/doi/full/10.1177/1477878518779879>> [accessed 15 May 2020].

intake, they are less adept at cultivating friendships between pupils from different groups than their counterparts in the integrated system, which is predicated on enhancing meaningful interactions between those groups.²³

Shared Education may be a useful interim step between a system that is entirely segregated by religion and a fully integrated system, but, as noted above, a significant proportion of schools (just under a third) and an even higher proportion of pupils (three quarters) are not currently engaged with such programmes. What's more, because Shared Education is legally defined as 'the education together of those of different religious beliefs' rather than 'those of different religions or beliefs', it is entirely possible that the programmes it engenders will overlook the necessity of meaningful contact between the religious and the non-religious. This is likely to be the case because (as per our response on inclusive Religious Education below) non-religious perspectives are given essentially no consideration as part of the curriculum and, since all schools in Northern Ireland are to some extent 'faith informed',²⁴ pupils from non-religious backgrounds already face significant discrimination (e.g. through the imposition of compulsory worship).

For all these reasons, the current Northern Ireland schooling system means the Government is failing to fully meet its duties under Article 29 of the UNCRC to prepare children 'for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups...'²⁵ Many children who are educated in single denomination schools do not have the opportunity for meaningful contact with those of differing backgrounds to their own – be they pupils or teachers – and even when this does occur, it is not clear that the provision is diverse enough to mean that all children, including the non-religious, will be treated equally. This violates one of the basic principles of non-discrimination laid out in Article 2 of the UNCRC.

Finally, the lack of meaningful, sustained contact between groups with differing backgrounds and beliefs is a threat to the freedom of thought, conscience, religion, or belief of individual pupils. This is because, as a result of being educated in a monocultural environment, many will not be exposed to different ways of thinking about the world or understand that beliefs which differ from those of their community are a possibility for them.

To ameliorate the situation, the Government must do more to develop a single system of state education which educates pupils from all backgrounds together, and treats the members of all religion or belief groups equally. With this in mind, we note that the New Decade, New Approach agreement, which has been

²³ Daniel Blaylock et al. 'Integrating Northern Ireland: Cross-group friendships in integrated and mixed schools' *British Educational Research Journal* (2018) Vol. 44, No. 4, August 2018, pp. 643–662

<<https://bera-journals.onlinelibrary.wiley.com/doi/abs/10.1002/berj.3452>> [accessed 18 September 2020].

²⁴ Matthew Milliken, *Religion and Education*, Transforming Education, Briefing Paper 2, p.3

<https://www.ulster.ac.uk/_data/assets/pdf_file/0003/476076/transforming-education-02-Religion-and-Education.pdf> [accessed 20 September 2020].

²⁵ United Nations Convention on the Rights of the Child (1989), Article 29 (d) <<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>> [accessed 18 September 2020].

endorsed by the NI Executive parties, said that the current system was 'not sustainable' and included the commitment to conduct an independent review of education.²⁶ In March 2020, the Assembly agreed, almost unanimously, that this review should take place urgently.²⁷ The review should be well under way by the time the UN Committee makes its report. However, unless this review attempts to consider and pose solutions to the issues highlighted above, we fear that its success will be severely limited.

Question(s):

- 1) How does the Government plan to address the number of pupils currently being educated in schools where they have no meaningful contact with people holding different religions or beliefs?
- 2) What assessment has the Government made of the impact on children of the exemption of teachers from the Fair Employment and Treatment (Northern Ireland) Order (FETO) 1998? And what will it do to address the fact that Catholic staff usually teach Catholic pupils and Protestant staff usually teach Protestant pupils?
- 3) How will the Government address the potential of single faith Boards of Governors to bolster school segregation either through teacher recruitment or via their input into the general ethos of the schools that they manage?
- 4) How will the Government address the shortcomings of Shared Education, including the fact it is predicated on bringing together those of different religions but makes no reference to those holding non-religious beliefs and is unlikely to be as successful at cultivating good relations between communities as fully integrated schooling?
- 5) What plans does the Government have to desegregate the education system?

Issue: Compulsory Christian worship in schools

Context: In the last set of Concluding Observations, the Committee said that 'legal provisions for compulsory attendance at collective worship in publicly funded schools' should be repealed and the State Party should 'ensure that children can independently exercise the right to withdraw from religious worship at school.'²⁸ This recommendation was intended to protect the freedom of thought, conscience, religion, or belief outlined in Article 14 of the UNCRC. Nevertheless, it is still the case that, under Article 21 of the Education and

²⁶ *New Decade, New Approach* (January 2020) p.43 <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade_a_new_approach.pdf> [accessed 20 September 2020].

²⁷ Northern Ireland Assembly, 'Official Report: Tuesday 10 March 2020' <<http://aims.niassembly.gov.uk/official-report/report.aspx?&eveDate=2020/03/10&docID=297457>> [accessed 20 September 2020].

²⁸ 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) D 35, p. 7 <<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6OkG1d%2FPPrICAqhKb7yhskHOj6VpDS%2F%2FJqg2Jxb9gncnUyUgbnuttBweOlylfyYPkBBwffitW2JurgBRuMMxZqnGgerUdpjxij3uZ0bjOBOLNTNvO9fUIEOvA5LtW0GL>> [accessed 20 September 2020].

Libraries (Northern Ireland) Order 1986,²⁹ the school day in every grant-aided school must include collective worship and no action has been taken to permit older pupils to withdraw themselves from these sessions.

Evidence:

Unlike in England and Wales, there is no legal requirement that school worship in all schools has a distinctly Christian character, but, owing to the ‘faith-informed’³⁰ nature of the system, including the faith-based composition of Boards of Governors, this is invariably how the law is understood.

Parents have a legal right to withdraw their children from collective worship. However, this ignores the fact that, under both the Human Rights Act 1998 and Article 14 of the UNCRC, children and young people 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 their parents opt out. This not only risks the freedom of conscience of pupils and families who are not aware of the right to withdraw, but indirectly requires those who do exercise this option to reveal information about what they believe in a way that could risk the right to privacy outlined in Article 16.

By failing to give even those aged over 16 the option to opt out of collective worship, the law also entirely fails to enable children and young people to exercise their ‘Gillick competence’³¹ rights in a ‘manner that is consistent with’ their ‘evolving capacities’, as established in European case law and reflected in Articles 12 and 14 of the UNCRC. This view has been repeatedly endorsed by the UK Parliament’s Joint Committee on Human Rights (JCHR), for example in reports in 2006,³² 2008,³³ and 2010.³⁴ As previously noted, sixth-form pupils in England and Wales already have this legal right, although it is worth mentioning that the failure of either country to grant younger, sufficiently mature pupils the right to withdraw themselves from worship means that, even there, the provisions of the UNCRC have not been properly realised.

²⁹ The Education and Libraries (Northern Ireland) Order 1986, Article 21 <<https://www.legislation.gov.uk/nisi/1986/594/article/21>> [accessed 20 September 2020].

³⁰ Matthew Milliken, *Religion and Education*, Transforming Education, Briefing Paper 2, p.3 <https://www.ulster.ac.uk/data/assets/pdf_file/0003/476076/transforming-education-02-Religion-and-Education.pdf> [accessed 20 September 2020].

³¹ See *Gillick v West Norfolk and Wisbech AHA* [1985] UKHL 7 (17 October 1985).

³² Joint Committee on Human Rights, *Legislative Scrutiny: Thirteenth Progress Report, Twenty-fifth Report of Session 2005-06*, paragraphs 2.1-2.6 <<https://publications.parliament.uk/pa/jt200506/jtselect/jtrights/241/241.pdf>> [accessed 19 August 2020].

³³ Joint Committee on Human Rights, *Legislative Scrutiny: Education and Skills Bill, Nineteenth Report of Session 2007-08*, paragraphs 1.40-1.45 <<https://publications.parliament.uk/pa/jt200708/jtselect/jtrights/107/107.pdf>> [accessed 19 August 2020].

³⁴ Joint Committee on Human Rights, *Legislative Scrutiny: Children, Schools and Families Bill; other Bills, Eighth Report of Session 2009-10*, paragraphs 1.30-1.40 <<http://www.publications.parliament.uk/pa/jt200910/jtselect/jtrights/57/57.pdf>> [accessed 19 August 2020].

What's more, even when parents request an exemption, the process of withdrawal is often difficult (not least because the law is often poorly understood by schools). Children who have been removed from worship are rarely given a meaningful alternative of equal educational value during the time their peers are attending worship. Indeed, in 2019 two non-religious parents, Lee and Lizanne Harris (supported by Humanists UK), took a legal challenge against their children's school in England because it refused to provide just such an alternative.³⁵ When the Trust that runs the school eventually backed down after the Harrises won permission to have their case heard at the High Court, the school agreed to provide an inclusive alternative to the Harris children and any other withdrawn children whose parents wished them to receive it.

We understand that two non-religious parents in Northern Ireland are currently in the process of taking a similar case to that of the Harrises (although this one also takes account of religious education, which is further discussed below).³⁶ It is likely that more such cases will be necessary given that a) worship is a particularly inappropriate activity for those from non-religious backgrounds who don't believe in a deity to be worshipped; and b) the number of non-religious people in Northern Ireland is on the rise, with 20% of adults now saying they belong to no religion according to the latest Northern Ireland Life and Times Survey.³⁷

However, most parents, including non-religious parents, who would like to see a meaningful alternative to collective worship in their child's school won't be in a position to mount expensive and time-consuming legal proceedings. What's more, such action may risk alienating the family from the school and is clearly not the most desirable means by which to ensure that children get the kind of non-discriminatory provision to which they are entitled under Article 2 of the UNCRC. Instead, this aim would be far better met by a change to the law.

For all these reasons, we strongly believe that the UNCRC can only properly be considered to have taken effect once collective worship has been abolished. We therefore urge the Government to remove the requirement for collective worship in all schools and replace it with fully inclusive assemblies, which do not discriminate and demonstrate respect for children and families from all religion and belief backgrounds.

³⁵ Humanists UK, 'School concedes in collective worship case – will provide alternative assemblies' <<https://humanism.org.uk/2019/11/20/school-concedes-in-collective-worship-legal-case-will-provide-alternative-assemblies/>> [accessed 19 August 2020].

³⁶ Alan Erwin, 'Non-religious couple in legal challenge over Northern Ireland school religious teaching', *Belfast Telegraph* (19 November 2019) <<https://www.belfasttelegraph.co.uk/news/northern-ireland/non-christian-couple-in-legal-challenge-over-northern-ireland-school-religious-teaching-38706408.html>>

³⁷ Northern Ireland Life and Times Survey (2019) <<https://www.ark.ac.uk/nilt/2019/Background/RELIGION.html>> [accessed 20 September 2020].

Question(s):

- 1) Why has the Government failed to repeal the requirement for schools to provide worship collective worship or allow older pupils to exercise a right to withdraw from these sessions in line with the recommendations of the UN Committee's last set of Concluding Observations? Will it take such steps now?
- 2) Failing the above, why hasn't the Government taken any steps to ensure a meaningful educational alternative is offered to children and young people who have been withdrawn from collective worship so that they are not disadvantaged in terms of their spiritual, moral, social, and cultural development on the grounds of their religion or belief? Will it take such steps now?
- 3) Given the existing requirement for worship in all schools, how does the Government intend to ensure that the article 14 rights of young people are respected in line with their 'evolving capacities'?
- 4) What assessment has the Government made of the numbers of non-religious children and young people for whom worship is an inappropriate activity currently attending schools that are compelled to provide (largely Christian) worship?

Issue: Lack of inclusive religious education

Context: At present, all grant-aided schools are legally required to provide religious education (RE) that is explicitly 'based on the holy scriptures'.³⁸ While this education is not supposed to be denominational in content, the syllabus is 'drawn up by a consortium of nominees representing the Catholic church and the three transferor Protestant denominations'.^{39, 40} There is no representation of minority faiths or humanism on this consortium, thus the curriculum it has generated is almost exclusively Christian and fails to adequately respect the requirement that, in line with the European Convention on Human Rights and the Human Rights Act, such teaching is 'objective, critical, and pluralistic'. This not only threatens the freedom of thought, conscience, religion, or belief protected by Article 14 of the UNCRC, but critically undermines the provisions against discrimination outlined in Article 2.

Evidence:

Since the 1990s, the core RE 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,'

³⁸ The Education and Libraries (Northern Ireland) Order 1986, Article 21 (2) <<https://www.legislation.gov.uk/nisi/1986/594/article/21>> [accessed 20 September 2020].

³⁹ The Church of Ireland, Prebyterian, and Methodist.

⁴⁰ Matthew Milliken, *Religion and Education*, Transforming Education Briefing Paper 2, p.2 <https://www.ulster.ac.uk/_data/assets/pdf_file/0003/476076/transforming-education-02-Religion-and-Education.pdf> [accessed 20 September 2020].

but otherwise this syllabus is almost exclusively Christian in content.⁴¹ What's more, 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' (emphasis added)⁴², it is clear that the assumption here is that 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. In 2015, the High Court in England 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 have to include substantive content on 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'.⁴³

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 religions and humanism.⁴⁴

Although neither the High Court ruling nor the Commission have yet led to RE in England becoming adequately inclusive of humanism, the number of schools that do cover the subject is growing year on year⁴⁵ and humanist representatives are now active in over 100 of the bodies that oversee the syllabus at local authority level (known as Standing Advisory Councils on Religious Education or SACREs). Further, in Wales, as part of an overhaul of the curriculum, the Government has recently laid a Bill before Senedd that will see humanism and humanist representatives explicitly included in the curriculum and the bodies responsible for

⁴¹ Department of Education, *Core Syllabus for Religious Education* (2007) <<https://www.education-ni.gov.uk/sites/default/files/publications/de/religious-education-core-syllabus-english-version.pdf>> [accessed 20 September 2020].

⁴² Ibid. p. 29.

⁴³ *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 20 August 2020].

⁴⁴ 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 21 August 2020].

⁴⁵ In 2019, there were nearly 40,000 visitors to the Understanding Humanism website (an increase of close to 35,000 since 2015) and Humanists UK school speakers visited 500 schools speaking to nearly 50,000 pupils (up from 80 in 2015). Research from the National Association of Teachers of RE (NATRE) shows that teaching about non-religious worldviews in primary schools in England had increased from 36% in 2016 to 51% in 2018. (see NATRE, *An analysis of the provision for RE in Primary Schools – Autumn Term 2018* (2018) p.11 <https://www.natre.org.uk/uploads/Free%20Resources/NATRE%20Primary%20Survey%202018%20final_1.pdf> [accessed 21 September 2020].

it from 2021 onwards.⁴⁶ In the Explanatory Memorandum relating to the Bill, as well as a letter clarifying the provisions written by Minister for Education Kirsty Williams to the Senedd's Children, Young People, and Education Committee, the explicit rationale is to bring the subject into line with the Human Rights Act.^{47 48}

As noted above, according to the latest Northern Ireland Life and Times Survey, 20% of adults belong to no religion, this goes up to 37% amongst those aged 25-34,⁴⁹ and represents a rise of 3% from the previous year. The proportion of non-religious people now exceeds that of every other religion or belief group except Catholics (36%), with Presbyterians accounting for 18% of the population and those who identify as Church of Ireland/Anglican/Episcopal 14%.

The failure to include adequate coverage of the beliefs of such a significant proportion of the population on the curriculum is not in keeping with 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 religions and humanism.

Question(s):

- 1) How does the Government intend to address the discrimination inherent in the fact that the core RE syllabus is drawn up solely by representatives of the four main Christian churches with no involvement from those from non-religious or minority faith groups?
- 2) How will the Government ensure that the RE curriculum fully acknowledges and respects the beliefs of the growing number of non-religious people and those with minority faiths?

Issue: Relationships and Sexuality Education (RSE)

Context: Since the revised Northern Ireland Curriculum was introduced in 2007,

⁴⁶ Curriculum and Assessment (Wales) Bill (2020) <<https://senedd.wales/laid%20documents/pri-ld13294/pri-ld13294%20-e.pdf>> [accessed 21 August 2020].

⁴⁷ Welsh Government, *Curriculum and Assessment (Wales) Bill: Explanatory Memorandum* paras 3.99 and 9.57 (September 2020) <<https://gov.wales/sites/default/files/publications/2020-09/curriculum-and-assessment-bill-explanatory-memorandum.pdf>> [accessed 21 September 2020].

⁴⁸ Letter to Lynne Neagle MS, Chair Senedd Children, Young People, and Education Committee from Minister for Education Kirsty Williams AS/MS (12 August 2020) <<https://business.senedd.wales/documents/s103995/Letter%20from%20the%20Minister%20for%20Education%20regarding%20the%20Bills%20provisions%20as%20they%20relate%20to%20Religion%20Va.pdf>> [accessed 21 September 2020]

⁴⁹ Northern Ireland Life and Times Survey (2019) <<https://www.ark.ac.uk/nilt/2019/Background/RELIGION.html>> [accessed 20 September 2020].

Relationships and Sexuality Education (RSE) has been a statutory component of Personal Development and Mutual Understanding in the primary curriculum; the Personal Development and Home Economics statements of requirement for Key Stage 3; and the Personal Development strand of Learning for Life and Work at Key Stage 4. However, despite this, schools are still permitted, indeed encouraged, to teach the subject in line with their distinctive (religious) ethos. While 'there is no legislative provision permitting parental withdrawal from sex education', parents are nevertheless allowed to grant such requests on the basis that 'parents or carers have the right to have their children educated in accordance with their wishes.'⁵⁰ This means that many children and young people are denied adequate access to comprehensive, objective RSE.

Evidence:

The fact that RSE has been compulsory in schools since 2007 is hugely positive. What's more, the teaching guidance⁵¹ and resources for both primary and post-primary schools provided by the CCEA are reasonably comprehensive and fully inclusive of LGBT people. Issues covered include consent, contraception, healthy relationships, internet safety, LGBT matters, and social media and self-esteem.⁵² Nevertheless, with respect to 'sensitive issues' like abortion (which is mentioned just once in the post-primary guidance), same-sex marriage, and gender identity, the guidance says, 'Schools may wish to deal with such issues differently, depending on their distinctive'⁵³ ethos. This option to provide a differentiated curriculum is particularly alarming given that one of the 'sensitive issues' mentioned is sexual abuse.

All the best evidence shows that teaching about different types of relationship, including sexual relationships, 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.⁵⁴ 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'.

⁵⁰ CCEA, *Relationships and Sexuality Education Guidance: An Update for Primary Schools* (2015), p.9 <<https://ccea.org.uk/downloads/docs/ccea-asset/Resource/Relationships%20and%20Sexuality%20Education%20Guidance%20%E2%80%93%20An%20Update%20for%20Primary%20Schools.pdf>> [accessed 20 September 2020].

⁵¹ Ibid. and CCEA, *Relationships and Sexuality Education Guidance: An Update for Post-Primary Schools* (2015) <<https://ccea.org.uk/downloads/docs/ccea-asset/Curriculum/Relationships%20and%20Sexuality%20Education%20Guidance%20An%20Update%20for%20Post-Primary%20Schools.pdf>> [accessed 20 September 2020].

⁵² CCEA, 'Relationships and Sexuality Education (RSE)' <<https://ccea.org.uk/learning-resources/relationships-and-sexuality-education-rse>> [accessed 20 September 2020].

⁵³ Ibid. p. 19.

⁵⁴ 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 19 September 2019].

At present, however, the subject as it is taught in Northern Ireland only goes part of the way towards 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.’⁵⁵ This is for two main reasons:

First, while RSE is permitted to be taught from a faith-based perspective, there is a significant risk that content will be distorted to match the philosophical convictions that underpin the school’s ethos. This might mean erroneous teaching about the physical or mental impact of abortion⁵⁶, or teaching that homosexuality is morally impermissible, and could have devastating consequences for the physical and mental wellbeing of pupils. Indeed, evidence shows that, while LGBT-specific information is often absent from teaching in a variety of different schools, this situation is particularly prevalent in schools with a religious ethos. While only one in five of all LGBT pupils in England have learnt about where to go for help and advice about same-sex relationships in school, the proportion drops to just one in ten for LGBT pupils who attend ‘faith’ schools.⁵⁷

With respect to LGBT issues, the right of schools to teach that being LGBT is not in line with their faith risks being particularly damaging because it also makes it far more likely that LGBT young people will be subject to bullying from their peers. Research conducted by Stonewall in England has found that 45% of LGBT pupils are subject to bullying because of their identity, and the majority hear discriminatory language in school⁵⁸ and concerns about bullying of LGBT children was highlighted as an area of concern in the last set of Concluding Observations.⁵⁹ Challenging LGBT discrimination in school lessons and in everyday school life is fundamental to fostering equality at school and in wider society and can only be done in a context where children have access to accepting relationships education. This teaching should take place at both primary and secondary level, to stem the development of anti-LGBT prejudice and to support LGBT people in the school community.

⁵⁵ 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/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en> [accessed 19 August 2020].

⁵⁶ Humanists UK, ‘Abortion fact-sheet launched to challenge junk science in schools’ (31 January 2019) <<https://humanism.org.uk/2019/01/31/abortion-factsheet-launched-to-challenge-spread-of-junk-science-in-schools/>> [accessed 21 September 2020].

⁵⁷ Humanists UK, ‘LGBT-inclusive relationships and sex education not yet the norm in schools, new report finds’ (27 June 2017) <<https://humanism.org.uk/2017/06/27/lgbt-inclusive-relationships-and-sex-education-not-yet-the-norm-in-schools-new-report-finds/>> [accessed 21 September 2020].

⁵⁸ Stonewall, *School Report 2017* <<https://www.stonewall.org.uk/school-report-2017>> [accessed 20 September 2020].

⁵⁹ 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 47 (a) <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en> [accessed 20 September 2020].

Second, the fact that schools may grant parental requests to withdraw their children from RSE means that these pupils will be systematically denied their right to this education. This is particularly concerning if a parent is subjecting a child to abuse of a sexual nature. In such 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. What's more, unlike in England where pupils who are three terms or less from their 16th birthday may opt themselves in to sex education (relationships education is mandatory with no right to withdraw at any stage), there is no right for older pupils to request RSE when they are sufficiently mature enough to do so, meaning the policy does not allow such pupils to realise their rights under 'Gillick competence'.⁶⁰ Here it is worth noting that, in Wales, a new Bill seeks to remove the right to withdraw from RSE entirely.⁶¹ In our view, the only way the rights laid out in the UNCRC can be fully realised is if, as in Wales, the right to withdraw is abolished and all pupils are granted full access to a comprehensive, objective RSE curriculum that is suitable for all irrespective of background or belief.

Question(s):

- 1) Will the Government commit to abolishing the right of parents to withdraw their children from Relationships and Sex Education?
- 2) If not, what plans does the Government have to ensure that children who are removed from RSE lessons receive the information on relationships and sex that they require to grow up healthy, happy, and safe?
- 3) What assessment has the Government made of the impact of teaching about issues such as abortion, contraception, and same-sex marriage or relationships from a faith-based perspective on the health, wellbeing, and development of pupils?

Issue: Science education, evolution and creationism

Context: Although science is a statutory element of the curriculum, there is no requirement to teach about evolution. What's more, unlike in England – where state-funded schools are precluded from teaching 'any view or theory... as evidence-based if it is contrary to established scientific or historical evidence and

⁶⁰ See *Gillick v West Norfolk and Wisbech AHA* [1985] UKHL 7 (17 October 1985).

⁶¹ Curriculum and Assessment (Wales) Bill (2020) <<https://senedd.wales/laid%20documents/pri-ld13294/pri-ld13294%20-e.pdf>> [accessed 21 August 2020].

explanations⁶² – there is no prohibition on the teaching of pseudoscientific theories such as creationism or intelligent design.

Evidence:

Without early and extensive teaching about evolution, it is impossible for pupils to properly grasp the most central topic in biology, namely how life came to be. And without an explicit ban on teaching creationism, intelligent design, and other pseudoscientific theories as evidence-based, the overtly religious nature of schools in Northern Ireland means such teaching is often a feature of the school curriculum.

To illustrate, at KS3, pupils are expected to learn about the environment and human influences, as well as the solar system and universe, and even ‘develop a sense of wonder about the universe’ through considering the complexity, diversity, and interdependence of living things’.⁶³ But neither evolution nor natural selection is mentioned in the minimum content.

What’s more, some politicians have actively endorsed the teaching of creationism in schools, with DUP MLA Thomas Buchanan saying he wishes to see it taught in every school in order to ‘[reach] out to children who have been corrupted by the teaching of evolution’.⁶⁴

It is vital for the right to education enshrined under Article 28 of the UNCRC – which includes ‘the elimination of ignorance’ by ‘facilitating access to scientific and technical knowledge’⁶⁵ – that children are not exposed to doctrines masquerading as science but which are not. Further, the teaching of such theories as fact threatens the freedom of thought, conscience, religion, or belief of children protected by Article 14 since its failure to impart knowledge in a manner that is ‘objective, critical, and pluralistic’⁶⁶ – a standard that applies to all subjects in the curriculum, not just religious education – amounts to indoctrination under human rights law.

With this in mind, the Government should make evolution an explicitly statutory element of the curriculum for all learners from primary school onwards (as is the case in England where the subject is taught from Year 6). It should also prohibit the teaching of creationism and other pseudoscientific theories as evidence-based. This prohibition should apply to all lessons, but will be of particular significance in science, RE, and also RSE, where such theories (for example about the physical and mental health implications of abortion) can prove especially harmful.

⁶² Department for Education, ‘Academy and free school funding agreement: single academy trust’ (2014) <<https://www.gov.uk/government/publications/academy-and-free-school-funding-agreements-single-academy-trust>> [accessed 21 September 2020].

⁶³ CCEA, Science and Technology: Science, Statutory Requirements <<https://ccea.org.uk/downloads/docs/ccea-asset/General/Statutory%20Requirements%20for%20Science%20at%20Key%20Stage%203.pdf>> [accessed 21 September 2020].

⁶⁴ Paul Ainsworth, ‘MLA backs event promoting teaching children creationism’ (21 September, 2016) <<http://www.irishnews.com/paywall/tsb/irishnews/irishnews/irishnews/news/2016/09/21/news/mla-backs-conference-promoting-the-teaching-of-creationism-in-schools-702781/content.html>>

⁶⁵ Article 28, para. 3.

⁶⁶ *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 20 August 2020].

Question(s):

- 1) How does the Government plan to ensure that evolution is explicitly included in the statutory science curriculum in primary and post-primary schools in Northern Ireland?
- 2) How does the Government intend to prevent the teaching of creationism and other pseudoscientific theories as evidence-based in schools?
- 3) What assessment has the Government made of the number of schools that teach creationism or intelligent design as fact in Northern Ireland?
- 4) What steps will the Government take to ensure that all children receive the broad and balanced science education to which they are entitled under Article 28 of the UNCRC?
- 5) How will the Government protect the freedom of conscience, religion, or belief of pupils who are taught creationism, intelligent design, and other pseudoscientific theories as evidence based in schools in Northern Ireland, should such teaching continue?

Please add additional boxes as required.

Please return your response to Claire Kemp: Claire@childrenslawcentre.org

by Monday 21st September 2020.

Thank you!