

## Submission to the Public Administration Select Committee on the 2011 Census Question on Religion.

*British Humanist Association, March 2009*

### About the British Humanist Association

The British Humanist Association (BHA) is the national charity representing the interests of the large and growing population of ethically concerned, non-religious people living in the UK. It exists to support and represent people who seek to live good and responsible lives without religious or superstitious beliefs. It is committed to human rights and democracy, and has a long history of active engagement in work for an open and inclusive society.

The BHA's policies are informed by its members, who include eminent authorities in many fields, and by other specialists and experts who share humanist values and concerns. The BHA is deeply committed to human rights and advocates an open and inclusive society in which individual freedom of belief and speech are supported by a policy of disinterested impartiality on the part of the government and official bodies towards the many groups within society so long as they conform to the minimum conventions of the society.

### Introduction

We understand that PASC is likely to be undertaking work on statistical issues related to the 2011 Census and we are pleased to make this early submission to the Committee on the Census question on religion.

A question on religion was included in the Census in England and Wales for the first time in 2001. It was added at a late stage and produced a grossly inaccurate measurement of the religiosity of the population: its underreporting of the non-religious population and its failure to reflect accurately either religious belief, religious practice or religious affiliation have produced a clear and damaging change in the direction of public policy on religion or belief.

The White Paper 'Helping to shape tomorrow: The 2011 Census of Population and Housing in England and Wales' (Cabinet Office, December 2008) proposes to use the same question<sup>1</sup> as in 2001. This would reinforce and probably extend existing public policy in ways that are already producing discrimination based on religion or belief.

We have taken a full part in the public consultations about the 2011 Census and have had a number of meetings with Office for National Statistics<sup>2</sup> (ONS) to discuss alternatives for the Census question on religion. Initially they assured us that they understood and largely agreed with our concerns and would test a number of alternative questions.

In the event, ONS tested only two alternative questions. One – as reported in the White paper – proved predictably unsatisfactory. The other gave statistically significant and, we have reason to believe, more accurate figures, especially for Christians, Sikhs and non-religious people. **This question they failed to mention to us until after the White Paper had been written and there is no mention of it in the White Paper.**

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<sup>1</sup> With the minor change of 'None' to 'No religion' in the list of suggested answers.

<sup>2</sup> The Office for National Statistics (ONS) is the executive office of the UK Statistics Authority, a non-ministerial department which reports directly to Parliament.

They now propose to re-use the flawed 2001 question. Not only will this entrench the errors of 2001 but we consider the question potentially unlawful under the Human Rights Act 1998 (HRA) and the Equality Act 2006.

### **Summary of concerns**

- We have had no real response to our legal questions as to how the ONS justifies using a question in the 2011 Census which will overestimate the number of religious people and underestimate the number of non-religious people and therefore be likely to lead to discrimination. Such discrimination, because it is not objectively justified, would be unlawful under both the Human Rights Act 1998 and the Equality Act 2006.
- We have had no answer to our concerns that the 2001 question measures cultural *affiliation or identity*, rather than religious affiliation or identity. (This is evidenced by the fact that the ONS accepted that a different question which measures religiosity more directly gives statistically significant changes: changes which are best explained by our view of the difference in what the questions measure.)
- We have had no answer from ONS as to why it believes a measure of religious affiliation or identification (even if the 2001 question did measure *religious* affiliation or identity rather than *cultural*) will meet needs better than a measure of beliefs or practice.
- A question that purports to measure religion or belief (as it must do following the Equality Act 2006 and section 6 of the HRA 1998) is not compliant with that provision if by referring to religion in a way that may be perceived as cultural it fails to treat lack of religion equally with religion.

### **Proposed question on religion is unlawful under the Human Rights Act 1998 and under the Equality Act 2006**

On 16<sup>th</sup> May 2008, soon after the ONS told us that they had reversed their previous intention to revise the question on religion, solicitors acting on behalf of the BHA wrote to Karen Dunnell, National Statistician, ONS, regarding our concern that we do not consider the decision lawful under the Equality Act 2006 and the Human Rights Act 1998. We claimed that the question is unlawful because it seeks to measure religious affiliation and because use of the data from the 2001 question has led to serious and significant discrimination against the non-religious.

The reply from ONS, which was not written until seven months later, on 9<sup>th</sup> December, did not satisfactorily answer our concerns and we remain convinced that the proposed question remains unlawful. See both letters attached at appendices A and B.

### **Data inaccurate and does not meet user needs**

In preparation for the 2011 Census the ONS identified user for data relating to religion<sup>3</sup>. These included resource allocation, meeting legislative requirements, policy targeting, working with what it called 'faith communities', identifying and tackling discrimination, meeting equality targets, and policy development.

This all suggested that the need was for high quality, accurate and reliable information on actual religious practice and/or 'belonging' to a religion as it might affect the needs of service users. We do

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<sup>3</sup> Office of National Statistics. *Information paper. The 2011 Census: Assessment of initial user requirements on content for England and Wales – Ethnicity, identity, language and religion*. March, 2006

not believe this information can be garnered from the data produced by the question '*What is your religion?*'.

The question '*What is your religion?*' used in the 2001 Census and proposed for the 2011 Census gave a uniquely low figure for the non-religious compared with all other surveys. According to other, more accurate social surveys<sup>4</sup> people who identify as not belonging to any religion make up nearly half the total population (sometimes more). Indeed, if you look at actual religious practice, current Church attendance stands at just 6.3% of the population<sup>5</sup> - and is declining year on year. A tiny addition may be made for those of non-Christian religions but 90% of the population still are not regular attenders.

The under-representation of the non-religious, together with the widespread misuse of Census data on religion as if it measured actual belief, practice and/or 'belonging' to a religion and/or needs stemming from a religious position, is a serious issue. It is surely one reason why non-religious people are not included fully or at all in a variety of community initiatives; why they are disadvantaged by the disproportionate allocation of resources to those perceived as religious, and why they are not included fully in democratic processes and civic engagement, where these processes use religion as a category.

The 2001 Census question on religion actually measured cultural identification (and even then very crudely). To use such data in order, for example, to allocate resources or to extend to religious people and organisations privileged opportunities to influence and shape government policies for everyone in society on the basis that they represent a group whose size has been seriously exaggerated has potentially very serious consequences.

The Government and the ONS have recognised the inadequacy of the Census data. For example, in the Government's response to the consultation on the Equality Bill, it said '*reliable statistics are not available*' for '*strands such as... religion or belief*'<sup>6</sup>. Further, the ONS itself has said that there will be a need for guidance to clarify the data produced by the questions, because it is not a reliable indicator of religiosity.

The White Paper states '*ONS acknowledges that the proposed question does not measure religious practice, and that for some user needs (particularly for service planning) a measure of practice may be useful*' (p52).

Despite this recognition of the inadequacy of the data, it is clear that ministers, local and other public authorities, members of both Houses of Parliament, civil servants and others misuse the Census data on religion— interpreting them incorrectly and basing policies and actions on those misinterpretations. For example, a rationale behind the Government's new 'interfaith' strategy and the accompanying £7.5 million in funding from the public purse (following on from a previous £12.5 million) is the Secretary of State for Communities and Local Government's understanding, from the Census, that around 80% of the population of England and Wales have an active 'faith'<sup>7</sup>. We have been told by an official at the Department for Work and Pensions that they are 'required' to use census data to inform policy and practice, for example in relation to equality issues, and that this requirement almost certainly extends to other Government Departments.

Further, the notion that 72% of the population are 'Christian' has been used to justify the continuing presence of Bishops in the House of Lords, to justify the state-funding of faith schools (and their

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<sup>4</sup> See, for example, *Social Attitudes Survey 2007* among many other surveys and polls.

<sup>5</sup> Christian Research, *The 2005 English Church Census*.

<sup>6</sup> *The Equality Bill – Government response to the Consultation*, July 2008.

<sup>7</sup> Communities and Local Government *Face to Face and Side by Side: A framework for partnership in our multi faith society*, July 2008

expansion), to justify and seek an increase in religious broadcasting and to exclude the voices of humanists in a number of contexts.

### **A different question**

The BHA pressed for a different question in a series of meetings with the ONS - one which would provide reliable data on religious belief, practice or belonging or, at the very least, a genuine religious (as opposed to cultural) affiliation in the UK.

The ONS agreed to test a number of alternative questions. As mentioned in the White Paper, the question *'What is your religion or belief?'* was tested but, unsurprisingly and predictably, this was poorly understood and did not provide any improved data.

Although it is not mentioned in the White Paper, the ONS then also tested the question *'Do you regard yourself as belonging to a religion?'* and this produced statistically significant changes in the proportion of Christians, Sikhs and the non-religious. As would be expected, the proportion of Christians decreased, and the proportion of non-religious people increased.

The BHA was told by the ONS that they had decided not to propose this question for the 2011 Census because it produced a lower figure also for those following the Sikh religion. This was presumably because it did not capture non-religious Sikhs in England and Wales. A lower figure for the Sikh category was deemed unacceptable by the ONS.

Rather than change the existing question, which it agrees is flawed, the ONS has suggested that an adapted question be asked in social surveys as 'the best way'<sup>8</sup> to capture information relating to religious practice.

We believe that supplementary guidance on Census data on religion or using other social surveys to measure more accurately religion and belief in England and Wales is not at all a reasonable substitute for a changed question. The Census has by its prominence and by policy a pre-eminent position: bald Census figures will always carry far more weight, however flawed, than other, better surveys and riders and warnings about Census data will usually be overlooked or ignored.

It is clear that a question on religion, not least to be compliant with law, should not attempt to, or be used to, measure ethnicity. However, the reasoning given by ONS suggests that is exactly the reason for rejecting the question *'Do you consider yourself as belonging to a religion?'*, in favour of retaining the 2001 question.

What ONS is proposing is to use a question that they have agreed produces inaccurate figures for Christians, Sikhs and non-believers in order to capture an allegedly accurate figure for ethnic Sikhs. The obvious alternative is to use the 'belonging' question on religions and to include 'Sikh' as a category within the ethnicity section of the Census, as well as in the religion section.

### **Equality Impact Assessment**

We consider that ONS's Equality Impact Assessment (EIA) on including the religion question in the 2011 Census to be woefully inadequate. The EIA contains an inaccurate definition from the Equality Act of 'religion or belief' and shows a misunderstanding of religion or belief and the various issues involved.

Recommendation 19 from the EIA states, 'It is recommended that Census guidance notes explain the difference between a religion and a belief, with examples such as those given in the equality

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<sup>8</sup> Census 2011 White Paper, 2008

impact assessment.’ The fact that guidance needs to be produced simply to clarify what the difference is between a religion and a belief highlights that the question and the data gathered from it is not suitable for user needs. Second, and more importantly, given that even in the EIA there is a clear misunderstanding of the religion or belief equality strand in legal terms and otherwise, we are concerned about the quality of the guidance that may be written.

### **Inadequate response to Freedom of Information request**

Having been made aware that the ONS had tested the question ‘*Do you regard yourself as belonging to a religion?*’ and that this had produced significantly different data from that produced by ‘*What is your religion?*’ – data that was more consistent with more sophisticated studies of religion and belief in the UK - we submitted a Freedom of Information request to the ONS on 7<sup>th</sup> October 2008.

The FOI request specifically asked for ‘All papers dating from the current year about the choice of questions for the 2011 census on the subject of religion or belief, and in particular any cognitive and any field testing of questions carried out, including the wording of the questions tested, the size of the samples used and the aggregate answers produced, together with any papers assessing the results of the testing and making recommendations as to the question to be selected for use.’

The response – received on 3<sup>rd</sup> February 2009 after a quite unacceptable delay of almost four months – provided copies of some correspondence also requested in the FOI request, but nothing on the testing of the ‘belonging’ question or the results it produced. We have therefore to rely on what we were told at a meeting with ONS and are not in a position to say exactly how closely the results mirrored the more accurate data from other studies: only that the data were more realistic than those from the proposed question.

### **Conclusion**

It is clear to us that the question on religion proposed in the White Paper is not compliant with either the Equality Act 2006 or the Human Rights Act 1998.

We do not believe that ONS has taken into account the legal implications of proposing to re-use the 2001 question on religion; the discriminatory impact of such a proposal, or the failure to meet the needs that potential users have clearly indicated. We are convinced that the question ‘*What is your religion?*’ should not be used in the 2011 Census. The question must be changed.<sup>9</sup>

It is clear that ONS has failed to test enough alternative questions to establish which would capture the most accurate data on religion and belief, or to test alternative questions early enough in the process.

The best solution even at this late stage would be to carry out this testing now. In light of the timescales required, we appreciate the difficulties this may present, and if it is genuinely impossible, an acceptable solution might be to use the question that produced the most meaningful data in testing and would come closest to meeting the identified user needs, namely ‘*Do you regard yourself as belonging to a religion?*’. To address the issue that this question identifies as Sikhs only those who consider themselves to belong to the Sikh religion, the ONS could explore other avenues, particularly the inclusion of ‘Sikh’ as a category in the ethnicity section, so that accurate data would be produced on both ethnicity and belief or belonging.

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<sup>9</sup> The ONS and others have suggested that asking the same question has the virtue in consistency. Other things being equal, consistency is desirable, but consistency in error is a mark of obstinacy, not of virtue, especially when the result is misdirection of public resources and policy.

In the absence of a proper response to our FOI request, we do not know how accurate the data from the 'belonging' question would be. However, the ONS does know the results of its testing and thus how well the data correlates with that obtained from more sophisticated studies. The ONS must surely be required to divulge this information. Only then can a judgment be made as to whether '*Do you regard yourself as belonging to a religion?*' is an acceptable question. All the indications are that it would be far better than the 2001 question. If not, then there is no alternative to testing additional questions.