

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

British Humanist Association, April 2009

1 Introduction

In March, we made a submission to the Public Administration Select Committee (PASC) on the 2011 Census Question on Religion. Since that submission was made, the Office for National Statistics has published its 'Information paper: Recommended questions for the 2009 Census Rehearsal and 2011 Census. Religion'¹.

In light of the ONS paper, we are further convinced that all the concerns we set out in our earlier submission to PASC are fully justified.

We hold that the proposed question on religion for the 2011 Census is wholly unsuitable, is arguably unlawful in light of the Equality Act 2006 and the Human Rights Act 1998, and risks being in breach of the forthcoming Equality Bill, which is set to become law well ahead of the next Census.

This short submission should be read in conjunction with our previous memorandum.

We would welcome the opportunity to provide oral evidence to the Committee, should it decide to investigate the matter of the Census 2011 further.

2 The uses to which the data will be put

Before examining the ONS's attempt to justify its proposed question, we wish first to recall the uses to which the resulting data will be put by reference to the ONS paper 'The 2011 Census: Assessment of initial user requirements on content for England and Wales' (March 2006)².

Both the ODPM³ and the Home Office said that the data would 'assist planning and allocation of resources'. The ODPM said the data was 'crucial to our understanding of the changing nature and diversity of our communities'.

Local authorities said it would help them 'target resource allocation [and] funding for ... education' and would 'support social and community cohesion initiatives such as community plans'.

'Other data users' mentioned 'provision of resources to local education authorities for religious studies, introducing faith based welfare, monitoring discrimination and the provision of chaplains'.

The DfES would use the data to evaluate 'allegations of discrimination on the grounds of religion or belief [in] employment and vocational training and ... education'.

The then Commission for Racial Equality wanted 'to promote and monitor equality amongst people of different faiths and beliefs'.

¹ Called 'ONS paper' from herein

² <http://www.ons.gov.uk/about/consultations/closed-consultations/consultation-on-2011-census---responses/ethnicity--identity--language---religion.pdf>

³ Government departments have of course been reorganised since the consultation with users.

To summarise, the question is needed to inform resource allocation, to monitor compliance with duties not to discriminate, and to support community cohesion through a better understanding of society.

3 Summary of objections to ONS case

- The question proposed (as the ONS themselves now admit) is designed as a ‘leading question’ to capture the weakest possible religious affiliation, and is therefore quite unfitted to uses such as resource allocation and monitoring of discrimination. (*Section 4 below*)
- The justification provided by ONS for their proposed question on religion is focused on meeting requirements relating to ethnicity under the Race Relations Act. (*Section 5 below*)
- The ONS have ignored or misunderstood current and impending equality legislation on religion or belief with the result that their proposed question on religion fails to meet legal requirements. (*Section 6 below*)
- The ONS have misunderstood the legal meaning of ‘religion or belief’ and specifically the legal standing of non–religious beliefs. (*Section 7 below*)
- The ONS have failed to test or take proper account of the results of testing alternative questions that would more accurately measure religion and non–religious beliefs. (*Section 8 below*)

4 The question is leading and collects misleading data.

Given the uses to which the data will be put, one might have expected that the ONS would be concerned to ensure that something significant was being measured. However, not only do they reject (section 4 of their paper) the idea of measuring what people believe or how people behave, opting instead to measure the weaker concept of ‘affiliation’ – they then go on to decide to measure affiliation not by membership of a religious community or by ‘Identifying with particular church even if attendance is irregular’ but by the weakest possible concept of affiliation: as they say, the ‘question aims to include the weakest form of affiliation . . . (‘loose belonging including ethnic or family connections’)’ (p15). In their eyes, justification for ticking a religion includes ‘being christened or baptised, being married and choosing to getting married in church. . .’ (p28). They say elsewhere (p48): ‘While the question is aimed at religious affiliation, it should not risk counting as Christian people who actually have no religious affiliation whatsoever’. Yet being baptised at the age of a few weeks apparently counts as a religious affiliation.

The ONS do not apologise for the question (‘What is your religion?’) being a leading one. ‘Normally,’ (they say) ‘ONS aim to avoid asking leading questions such as ‘what is your religion?’ However, . . . a leading religion question is justified on the grounds that, by comparison to its alternatives, it is clear and encourages people with a loose affiliation to identify with a religion.’ (p26)

They claim that the question is ‘clear’ and ‘will help to minimise confusion’ (p15). Instead, it will create it. The public may gather that even if they are not religious they are expected to answer that they are (‘I have been christened, but I'm not religious.’ / ‘Well I'm going to put Christian down because I come from a Christian background’ (p28)) but users of the data will (as experience with the 2001 census has shown) misunderstand it.

Data users may not *feel* 'confused': they will think they understand – but in very many cases they will be wrong. Explanatory notes on the ONS website and monitory footnotes in reports will count for nothing. Claims that three-quarters of the population is Christian will continue to proliferate and not just that: they will continue to help shape policy and resource allocation at national and local level. Delegation of public service delivery to religious groups will accelerate, funds will continue to be lavished on religious organisations⁴, and Church spokesmen (almost always men) will continue in to have exaggerated influence. More schools will be handed over to religious sponsors, and religious education in non-faith schools will continue to be dominated by the 'six world religions' to the effective exclusion of non-religious beliefs despite the fact that two-thirds of teenagers⁵ and almost half of the population⁶ say they do not belong to a religion. Those who have no religion are therefore the victims of the ONS's deliberate policy of maximising the positive responses to the question. Despite accumulating evidence they seem to think the non-religious do not care or do not matter.

All this is already happening as a result of the question rushed into the 2001 Census without adequate consultation. The ONS quote the virtue of consistency in favour of repeating the question: there is no virtue in consistency in error. Errors are best corrected as quickly as possible. With the census, that cannot be done within ten years – it would be appalling if in the name of consistency accurate and meaningful data was denied us for 20 or 30 years or longer.

The ONS paper acknowledges that for some user needs additional information about practice may be useful because a measure of weak affiliation does not meet them. This is particularly true of resource allocation and service provision. They actually recommend that other surveys should have supplementary questions that capture belief and practice in order to meet such needs.

They plead lack of space on Census form, privacy issues and difficulties with the Head of Household as the respondent as reasons why they do not wish to capture practice with the religion question (p26).

We do not believe that these reasons provide an adequate justification – not least in light of the considerable discrimination against non-religious people in the allocation of public resources and in other ways that is likely to result from the undercounting of non-religious people. This point is detailed fully in our main submission to PASC.

5 The ONS's justification is focussed on ethnicity, not religion

It is clear throughout their paper that the ONS see the religion question principally as an additional question on ethnicity and as needed to meet a legal requirement on racial monitoring that is not met by the proposed ethnicity question.

The decision to target such weak religious affiliation is based on their wish to capture the large proportions of non-religious people who may consider that they are Jewish or Sikh by ethnicity (as seen in law under the Race Relations Act) but not by religion, a point we discussed in our main submission. The ONS paper makes it explicit that the Race Relations Act is their primary reason for

⁴ In defiance of any duty of non-discrimination, organisations representing the non-religious population were allocated less than 0.2% of the £13.3 million 'Faith Community Capacity Building Fund'.

⁵ *Young People in Britain: The Attitudes and Experiences of 12 to 19 Year Olds*. DfES Research Report RR564, National Centre for Social Research 2004 - ISBN 1 84478 291 3

⁶ British Social Attitudes Survey, National Centre for Social Research - in Table 13.18, Social Trends no 38, 2008

proposing such a 'leading question' in the 2011 Census. It states that 'evidence suggests that the 2001 question [on religion] provides a reasonable proxy for Sikh and Jewish ethnic groups' (p23).

One might have thought that the right place to capture data on ethnicity was the question on ethnicity. Yet the comparable report on the ethnicity question⁷ completely fails even to mention the issue. It does not include the word 'Jew' / 'Jewish' once and has 'Sikh' only once, where it says that 'a number of respondents to ONS consultations requested additional tick-boxes to be included in the question' for 'those who had⁸ a relevant tick-box in 2001 but were aggregated with other groups (for example Cornish, east African Asian, Kashmiri, Sikh, specific African groups)' – with no further comment at all.

The ONS paper acknowledges that the position of the religion question in the questionnaire will also affect how people respond to it. Placing it within a suite of questions after ethnicity and nationality means that respondents will associate those identities:

'I'm White British therefore I must be Christian' (Voas and Bruce 2004: 27).' Since the religious affiliation question is intended to measure just that – individuals with a cultural affiliation with a religion, ONS did not see this association as a problem (p54).

This makes absolutely clear that ONS are not interested in accurate data on religion. They are interested in additional data on ethnicity.

6 The ONS have ignored or misunderstood equality legislation on religion or belief

Importantly, while ONS might have been able to justify having a religion question that was actually a proxy for ethnicity in 2001, they cannot for 2011, when public authorities have duties not to discriminate on grounds of religion or belief and there will almost certainly be a public duty to promote equality not only on race but also on religion or belief – duties which their religion question will not meet.

As we stated in our main submission, a question that purports to measure religion or belief is not compliant with the Equality Act 2006 and the Human Rights Act 1998 if by referring to religion in a way that may be perceived as cultural it fails to treat lack of religion equally with religion.

It is clear from their paper that ONS have simply not addressed this issue at all. They have paid no regard to section 52 of the Equality Act 2006 or to section 6 of the Human Rights Act 1998. They have also failed to anticipate the forthcoming Equality Bill, which will replace all existing equalities legislation and is likely to have a public sector duty to promote equality as regards religion or belief – and to be in effect before the next Census takes place. We find this astounding – and it is not out of ignorance, for we have ourselves drawn attention to the legislation. Instead, the ONS seem simply to have decided to ignore the law.

7 The ONS have misunderstood the legal meaning of 'religion or belief'

Section 7.3 of the ONS paper seems to misunderstand legislation and legal terminology covering the religion or belief equality strand. Instead of going back to the law itself, they appear to have relied on secondary sources, and in all three of their fundamental propositions (p34) their reliance is misplaced:

⁷ <http://www.ons.gov.uk/census/2011-census/2011-census-questionnaire-content/recommended-questions---ethnic-group.pdf>

⁸ - or rather, did not have a tick box but when written in were aggregated in the way stated.

‘Religion or belief was defined in the Employment Equality (Religion or Belief) Regulations 2003 as ‘any religion, religious belief, or similar philosophical belief’ for example atheism and humanism but excluded ‘any philosophical or political belief unless that belief is similar to a religious belief’. (Commission for Racial Equality 2007)’

‘To be protected under the Equality Act 2006, a religion or belief must be recognised as being cogent, serious, cohesive and compatible with human dignity. The concept includes religions that are widely recognised in Britain (Equality and Human Rights Commission 2008).’

‘According to the Employment Equality (Religion or Belief) Regulations 2003, a religion is characterised by collective worship, or a clear belief system, or a profound belief that affects a way of life or a world view (Commission for Racial Equality 2007).’

The Employment Equality (Religion or Belief) Regulations 2003 have been amended, and the definitions have been changed. Although the ONS refer elsewhere to the 2006 Equality Act, they seem unaware that it changed the definition of a ‘belief’ in the Employment Regulations so that it no longer has to be ‘similar’ to a religion but is ‘any religious or philosophical belief’ and ‘a reference to belief includes a reference to lack of belief’.

It follows that the law’s protection extends to atheism, agnosticism or complete lack of belief – so the case law on ‘being cogent, serious, cohesive and compatible with human dignity’ has been misapplied.

Nor do the 2003 Regulations say anything about a religion being characterised ‘by collective worship, or a clear belief system, or a profound belief that affects a way of life or a world view’.

That the ONS can get the law so wrong is astounding. Can they be trusted to produce guidance on use of the Census data that will offset the severe repercussions for non-religious people of an uninformed reading if they themselves do not understand what is meant by religion or belief? The Equality Impact Assessment to which the ONS paper refers is certainly insufficient – we discussed that in our main submission.

In discussion of the Equality Act 2006, the ONS’s interpretation that it ‘is unlawful to discriminate against a person because of their affiliation to a religion or belief even if they are not practising or believers’ is right so far as it goes. Yet their conclusion does not follow, ‘A religious affiliation question will therefore meet user needs under this new legislation’.

Further, in 7.3.2 and 7.12 there is a discussion about recording non-religious beliefs – including the statement that ‘people with a religious affiliation or beliefs may, for example, be humanists, atheists or agnostics’. This amazing statement would normally stop the reader short but by this stage the depth of the ONS’s misunderstanding of non-religious beliefs makes it merely disappointing.

8 Testing of alternative questions to capture non-religious beliefs was not sufficient

The ONS paper reports the testing of two alternative questions, both of which they rejected. We are especially concerned with their reasons for rejecting the question, ‘Do you regard yourself as belonging to a religion?’ as mentioned in our main submission to PASC. In light of new information from the ONS paper and from a Freedom of Information request, we make these supplementary points about both questions.

Do you regard yourself as belonging to a religion?

Annex A in the ONS paper provides an analysis of the results of testing the question 'Do you regard yourself as belonging to a religion?' and shows that the difference in response rates for 'Christian', 'Sikh' and 'No religion' are statistically significant. Yet ONS did not cognitively test this question, justifying the omission by pointing to cognitive testing of a similar (but different) question over 10 years ago in 1997.

The question was rejected specifically because it did not capture the *ethnic* Sikh population, with a potential 'undercount' (more likely, a similarly more accurate count) of other minority religions. The failure to test this question properly and its subsequent rejection is clearly counter to good research methods, to good practice in demography and to capturing data adapted to recognised user needs. It makes it absolutely clear that the 'religion question' is actually a supplementary ethnicity question, and not one to measure religion or belief.

What is your religion or belief?

In papers released by the ONS on the Wave 5 testing, following a Freedom of Information request, they state that the question 'what is your religion or belief' worked well and that the respondents had a good understanding of what it was asking, and recommended that it is put forward in its current format for the 2009 Census Rehearsal. This is confusing considering that the ONS Paper states that the term belief was not understood and as such the ONS rejected that question.

What is more remarkable however is the Wave 6 'Testing Report', which describes, without giving clear reasons, how ONS changed this decision to revert to the 'what is your religion question' and got rid of the response examples next to the 'No religion' tick box: (including Humanist, Atheist Agnostic). The two questions produced statistically significant differences for 'Christian' and 'No religion', with higher numbers of 'No religion'. In that Report it states that 'Those who describe themselves as Atheist or Agnostic had more trouble finding a suitable box to select in this wave compared with Wave 5'.

In neither the Wave 6 'Testing Report' nor in the ONS Paper is there discussion of what exactly caused the difficulty in finding an appropriate place for non-religious people to record their beliefs.

Conclusion

Finally we wish to underline the significance of the wording of the question. What is purportedly being measured is religion. The resulting data will inform the self-perception of the population, the shape of public debate, the creation of government policy and the allocation of public resources. These are not trivial matters.

The answers to questions about religion are notoriously sensitive to the wording of the question and the way it is asked. In such circumstances, a question to be asked in the Census needs to be framed with the greatest of care. Given the difficulties, the ONS should err on the side of caution, in the sense of avoiding any question that will predictably yield extreme answers.

Yet the ONS has done exactly the opposite. The 2001 Census produced a Christian cohort far larger than any other survey or poll in recent times. It did so – and the ONS propose to do the same in 2011 – by

- Asking a leading question
- Asking a single question, rather than first asking whether respondents have a religion or not

- Framing the question to capture the loosest possible religious affiliation
- Placing the question in a group with questions of nationality and ethnicity
- Administering the question through heads of household, many of whom may answer for their family members.

It is difficult to think of any additional ways the apparent size of the religious – especially the Christian – population could be boosted. The ONS are operating under constraints, but they seem blithely unaware of the implications of their recommendations. The impact on the non-religious population is extreme. Contrast the results of the Census in 2001 with those of the question the ONS rejected and with the comparable questions asked in the British Social Attitudes survey in 2006:

	Census – 2001 'What is your religion?' (England)	Test question – June 2008 'Do you regard yourself as belonging to a religion?'	British Social Attitudes survey – 2006 'Do you regard yourself as belonging to any particular religion?' with follow-up if answered 'yes'
Christian	71.7	64.9	47.5
No religion	14.6	28.9	45.8

Are the non-religious 1 in 7 of the population – or 1 in 2? On what basis should Government policy be formed?

Parliament should require the ONS to produce a new question that is neither directly nor indirectly discriminatory against those who have no religion. If for any reason that proves impossible, the religion question should be removed from the Census altogether. It would be less damaging to have no question at all than to have a question that misinforms and misleads policy-makers and others who require information on religion and belief.

**British Humanist Association
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