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## **WELSH GOVERNMENT CONSULTATION: OUR NATIONAL MISSION: A TRANSFORMATIONAL CURRICULUM**

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### **Response from Humanists UK, March 2019**

#### **ABOUT HUMANISTS UK**

At 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 website (<https://understandinghumanism.org.uk/>) and our school speakers programme. We have made detailed responses to all recent reviews of the school curriculum, and submit memoranda of evidence to MPs, 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, and our Chief Executive is the Treasurer; the Welsh Association of Standing Advisory Councils on RE, of which our Wales Coordinator is an executive committee member; and, in England, the Sex Education Forum (which for many recent years our Education Campaigns Manager was on the steering group of), the PSHE Association, and the Children's Rights Alliance for England (CRAE). We have been on all Welsh and UK government steering groups that have reviewed RE in recent years.

Our support for RE is also reflected by the fact that many standing advisory councils on RE (SACREs) and agreed syllabus conferences (ASCs) have had humanist representatives (in some cases for decades), including as Chairs and Vice-Chairs. Recent years have seen a rise in the number of humanists who are on SACREs, particularly in Wales following on from the very helpful letter issued by the Education Minister in May 2018 to supersede part of Circular 10/94.

Our primary interests in education relate to issues surrounding the curriculum (in particular RE, PSE/RSE, citizenship, and science), collective worship/school assemblies, and state-funded religious schools.

## **RESPONSE TO CONSULTATION QUESTIONS**

### **Question 1. Do you agree with our approach to legislating for the new curriculum structure?**

#### **Yes**

We are not in a position to comment on the overall structure of the new curriculum, as to do so would require us to take a stance on matters that fall outside of our key areas of expertise. Nevertheless, we fully support the proposals to change the legislation on RE so that it 'takes account of non-religious worldviews which are analogous to religions' and is, therefore, fully inclusive of humanism. We also think it is right to make RE optional for older students, although the parental right to withdraw should be retained for younger children while denominational RE is still taught. We understand that the possibility of withdrawal might make it more difficult to integrate RE into the humanities AoLE, but this is essential to guarantee freedom of religion or belief for parents and children alike.

We agree with the proposals to make developmentally-appropriate RSE compulsory from ages 3-16, but think that the Welsh Government should reconsider the proposal to make the subject optional for sixth-formers, especially if the parental right to withdraw is retained (which we firmly believe it should not be).

The reasons underpinning the positions outlined here are fully explained in our responses to the questions below.

### **Question 6. Do you agree with making age and developmentally appropriate RSE compulsory for 3-16 years?**

#### **Yes**

We support the proposal to make RSE a statutory part of the curriculum for all learners under 16. It is crucial that all pupils attending state schools in Wales are provided with high-quality, comprehensive, and accurate education about relationships and sex, not least because this is what all the best evidence demonstrates will ensure that they are able to grow up healthy, happy, and safe. The evidence shows that young people who have had good RSE are likely to have sex for the first time later than others, and when they do so it is more likely to be consensual and safe and so less likely to lead to unwanted outcomes such as STIs, teenage pregnancies and abortion. The public health and wellbeing imperative is extremely strong.<sup>1 2</sup>

We particularly welcome the focus on developmental appropriateness which, while it takes account of the age of pupils, also gives due regard to their physical and cognitive development, as well as the experiences of learners when planning the RSE curriculum. This type of provision should be available to children irrespective of the type of school they attend (including schools with a religious character) or the beliefs of their parents.

### **Question 7. Do you agree with the proposed changes to the guidance making power so that it is designed to secure that RSE is provided in a way that is age and developmentally appropriate to the children receiving it?**

#### **Yes**

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<https://www.sexeducationforum.org.uk/sites/default/files/field/attachment/SRE%20-%20the%20evidence%20-%20March%202015.pdf>

<sup>2</sup> <http://unesdoc.unesco.org/images/0018/001832/183281e.pdf>

As noted in our response to question 6, the new emphasis on 'developmentally appropriate' RSE marks a positive change. We fully support the proposal to amend the existing guidance provision in primary legislation to acknowledge this development and to ensure that the guidance issued by Welsh Ministers fits more closely with the recommendations of the Expert Panel.

However, we are aware that the Welsh Government is also conducting a separate consultation on new RSE guidance in tandem with this consultation on the legislative framework. Unfortunately, the other consultation makes very little reference to this one. While we appreciate that this is likely to be because the guidance requires urgent revision which cannot wait for the legislative changes that may (or may not) occur as a result of the white paper consultation, it would be good if more explicit connections could be drawn between the two documents. This would make the direction of travel with respect to scope and age-range clearer to school leaders and teachers who will be tasked with implementing the changes in schools.

### **Question 8. Do you agree with our proposals to make RSE optional for learners in sixth forms?**

#### **No**

As an organisation that campaigns for the rights of children and young people, we are disappointed that the proposals on subjects for mandatory study post-16 and the parental right to withdraw treat RSE and RE as substantively similar when, at least at present, this is simply not the case.

RSE is a fact-based subject designed to provide pupils with the information they require to establish the kind of healthy, happy, and safe relationships (including sexual relationships) that are conducive to physical, mental and emotional wellbeing. RE may also be taught in an informative, objective manner (and the proposal to clarify the law on the inclusion of non-religious worldviews, such as humanism, on an equal footing with religious perspectives will go a long way towards ensuring that the subject is far less partisan than it has been in the past). However, the fact that religious schools are permitted to teach RE in accordance with their religious character means that, post-16, statutory provision of the subject risks violating the freedom of thought, conscience, and religion that young people are legally entitled to enjoy under Article 9 of the European Convention on Human Rights<sup>3</sup> and Article 14(1) of the UN Convention on the Rights of the Child<sup>4</sup>. This is simply not a consideration when it comes to RSE (unless it too is taught from a faith perspective).

There are also further reasons to think that RSE should be compulsory for sixth formers. One is that some aspects of the subject will be more developmentally appropriate to pupils at this age than when they are younger. Another is that given that RSE hasn't been compulsory in the past, some pupils (at least for the next few years) will quite possibly not have had RSE, and so making it compulsory for sixth formers would give those pupils coming into the sixth form a chance to still receive some education in the subject.

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<sup>3</sup> [https://www.echr.coe.int/Documents/Guide\\_Art\\_9\\_ENG.pdf](https://www.echr.coe.int/Documents/Guide_Art_9_ENG.pdf)

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[https://www.unicef.org.uk/wp-content/uploads/2010/05/UNCRC\\_united\\_nations\\_convention\\_on\\_the\\_rights\\_of\\_the\\_child.pdf](https://www.unicef.org.uk/wp-content/uploads/2010/05/UNCRC_united_nations_convention_on_the_rights_of_the_child.pdf) p.6

With this in mind, we recommend that, at the very least, post-16 institutions should be expected to provide RSE to all learners in sixth-forms. Ideally those learners would be compelled to attend the classes. What's more, in the event that the parental right to withdraw from RSE is retained for pupils aged 3-16 (for our objection to this see our response to question 11), there is even more reason to suggest that RSE should be made mandatory for sixth form pupils: this may represent the only opportunity for those who have been exempt from the subject to receive such education.

### **Question 9. Do you agree with the proposed approach to RE?**

#### **Yes**

The inclusion of religious and non-religious worldviews equally is a hugely positive step which brings Wales in line with the Human Rights Act of 1998 and the United Nations Convention on the Rights of the Child according to which freedom of belief is a right. Because of that step we have responded 'Yes' to this question.

However, in accordance with the recommendations of the final report of the Commission on RE on the future of the subject in England, we believe that 'there should be a national entitlement statement for RE which sets out clearly the aims and purpose of RE and what pupils should experience in the course of their study of the subject.' It 'should apply to all state-funded schools including schools of a religious character'. There should also be a repeal of the law as relating to agreed syllabuses, with schools free to determine their own syllabus within the confines of the entitlement.<sup>5</sup>

#### **ASCs, faith-based RE, and the possibility of a 'National Entitlement'**

We are concerned that the continuance of ASCs could lead to great variations in the content of the RE curriculum. The intention of Successful Futures is to produce one national curriculum across Wales, and one of the four key purposes of the curriculum is 'to support our children and young people to be... ethical informed citizens of Wales and the World.' This will simply not be achieved if we allow 22 different versions of the curriculum to be created.

Additionally, creating separate frameworks for RE for Church in Wales and Catholic schools will allow the continued teaching of denominational RE where other beliefs are not treated equally.

To avoid the existing problems associated with the drafting of syllabuses locally a single framework for RE should be developed nationally by education specialists and syllabus-drafting experts. This, of course, is the case in all other subjects and we see no reason why religious education should be any different. Religion and humanism experts - who may or may not identify with those religions or humanism - must clearly play a role in ensuring that content is accurate, but any suggestion that such representatives should have control over the design of programmes of study, or decisions over the amount of time dedicated to different beliefs, must be resisted. This is true not simply because competition for airtime is not conducive to coherent, continuous, and well-structured programmes of study, but also because Such representatives of religions too often have a vested interest in presenting their particular worldview in its most positive and appealing light. This is unlikely to result in a syllabus reflecting the fact that there is at least as much diversity within religions and beliefs as there is

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<https://www.commissiononre.org.uk/wp-content/uploads/2017/09/Executive-Summary-FINAL.pdf>

between them, and may well produce sanitised, unrepresentative versions of religions and beliefs, out-of-step with the real world and seen as irrelevant by young people. If those involved in RE care first and foremost about the educational experience of students, this is clearly something to be avoided.

It is also unlikely to reflect the fact that people often change their religion or belief over their lifetimes, that families frequently don't all share a religion or belief, or that a pupil may decide to be of a religion or belief other than their parents. Indeed, of those British adults who belong to no religion, the British Social Attitudes Survey suggests that only 38% of them were brought up with no religion, rising to 54% amongst 18-24 year olds. Conversely, some 41% of people brought up Anglican, 27% of those brought up Catholic, 40% of Methodists, and 44% of other Christians will end up belonging to no religion.<sup>6</sup> Some of those individuals will find this conversion extremely difficult, particularly if they come from coercive religious backgrounds and find themselves cast out by their families or former communities when coming out as non-religious. We estimate that there are between 50,000-150,000 such individuals, often called 'apostates', facing such difficulties in the UK.<sup>7</sup> Locally agreed RE syllabuses have not even begun to engage with such issues.

### **The inclusion of humanism**

All the usual contemporary justifications for the subject of religious education in the school curriculum – its contribution to social cohesion and mutual understanding, its presentation of a range of answers to questions of meaning and purpose, its role in educating about the history and present culture of humanity, and its role in the search for personal identity and values – can only be served by including humanist perspectives and non-religious students, as well as different religions.

Further, the 2017 British Social Attitudes Survey suggests that 52% of British adults belong to no religion, and this rises to 70% of those aged 18-24 (the youngest age category). Those belonging to the Church of England stand at just 2% of 18-24 year olds.<sup>8</sup> Previous years' surveys indicate that Wales is slightly less religious still than the rest of Britain. For RE to remain relevant to these students, it must teach about the full range of beliefs they actually hold.

When discussing the inclusion of non-religious worldviews in RE, we are often asked the question of why humanism should be included in particular. There are two main reasons for this:

The first is that it is the only non-religious worldview that is sufficiently well-articulated and the subject of a sufficient body of writing suitable for use in schools. The second is that it is the (explicit or implicit) worldview of the great majority of non-religious people in Wales. Not every person who meets the definition of a humanist would refer to themselves as such and some will even be unfamiliar with the term. However, this reflects the fact that non-religious people are not compelled by their beliefs to engage

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<sup>6</sup> Pages 12-13:

<https://www.stmarys.ac.uk/research/centres/benedict-xvi/docs/2017-may-no-religion-report.pdf>

<sup>7</sup> Forthcoming research by our programme Faith to Faithless.

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<http://natcen.ac.uk/news-media/press-releases/2018/september/church-of-england-numbers-at-record-low/>

in any sort of formal practice or observance, join any organisation or even identify with any particular creed at all. The difference between religions and non-religious worldviews on this score should not mask the fact that the humanist outlook on life is widespread in Britain today, much more so than all the minority religions combined.

Humanism is different from the major religions in being a descriptive label for a set of beliefs that have existed throughout history and across the world. Often when people come to self-identify as a humanist they say they have 'discovered' a term that has long applied to them. This doesn't happen with religions but is more akin to sexual orientation, for example. To try to get closer to understanding this phenomenon, Humanists UK has commissioned YouGov poll asked British adults a series of questions about their beliefs about religion, ethics, morality, and reason. The results find that 6% of British adults primarily identify as humanists; around half of the population that has a non-religious outlook on life has an outlook that matches the humanist one; and all but 5% of these would self-define as humanist when this fact was pointed out to them.<sup>9</sup> Whatever figures one uses – 52%, 26%, 21%, or 6% – non-religious people certainly outnumber all minority religious people put together and there are more adults who are humanists in Wales than there are members of all non-Christian religions combined.

For RE to remain relevant as a subject, it is vital that it is as relevant to the non-religious as it is to their religious peers. This is not to say that the subject should be purely dictated by the demands of students or the makeup of the classroom. Rather, 'relevance' means that students should be able to understand why they are learning something and appreciate why it is important for them to do so. It is doubtful that students would be minded to ascribe importance to a subject that included a range of different beliefs but not their own. Indeed, the vision of the RE Council for England and Wales is that 'Every young person experiences a personally inspiring and academically rigorous education in religious and non-religious worldviews'.<sup>10</sup>

Quite apart from the number of people who are non-religious in our society, reflecting the impact of the non-religious on that society is also important if RE is to achieve relevance (and to impart knowledge on the religious and non-religious heritage of humanity, as we mention above). As David Voas, quantitative sociologist of religion and Professor of Social Science at the UCL Institute of Education, writes:

'Religious scepticism is also an important and longstanding part of British culture and tradition. The beliefs and worldviews that are characteristic of this country can only be understood with reference to non-believers such as Aphra Behn in the 17th century, David Hume, Mary Wollstonecraft and Thomas Paine in the 18th, Percy Shelley, Jeremy Bentham, John Stuart Mill, George Eliot, Charles Darwin, T. H. Huxley, Charles Bradlaugh and Thomas Hardy in the 19th, Bertrand Russell and E. M. Forster in the early 20th, or the majority of leading philosophers and public intellectuals in the post-war period... It is impossible to understand the changing

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<sup>9</sup> For a news item based on an earlier version of this polling, see <https://humanism.org.uk/2017/06/15/new-poll-shows-one-in-five-are-humanists-and-a-third-hold-humanist-beliefs/> - more recent polling has shown the figures rise still further. With respect to Wales specifically, see <https://humanism.org.uk/2016/11/30/nearly-a-million-welsh-adults-have-a-humanist-approach-to-life-yougov-research-shows/>

<sup>10</sup> Aims, Vision and Values, Religious Education Council for England and Wales: <http://religiouseducationcouncil.org.uk/about/how-the-rec-works/aims-vision-and-values>

role of religion in society without grasping the significance of the age of enlightenment, movements such as rationalism and freethought, and belief systems based on atheism or humanism. The erosion of religious privilege and the spread of equality over the past two centuries is bound up with the rise of secularism. One cannot make sense of religion without some study of the alternatives.<sup>11</sup>

Given both the number of its proponents and the weight of its contribution, humanism demands inclusion in RE on the basis of any measure of current or historic significance. Only a crude attempt to divide religion and non-religion (and give priority to the former) can deny this.

Further, contrary to what is occasionally implied by the otherwise excellent final report by the Commission on Religious Education, atheism and agnosticism are not worldviews but positions merely on the existence of god. They are not equivalent to 'religions' but to 'theism'. Besides, humanists are by definition atheists or agnostics and so both terms would be discussed as part of the systematic study of humanism. Secularism is not a worldview but a political position on how the state relates to religious people and humanists. It is more akin to, for instance, feminism. It is a position that religious people can and do frequently hold, so to imply that it is a non-religious worldview would be particularly distorted.

### **Renaming the subject**

With respect to the name 'religious education', in our view, it is unsustainable for the subject to continue with this antiquated and misleading name. We believe that religious education should be as inclusive as possible, not just of all religions, but of humanism too. Since the proposed changes to the legislation are designed to reflect the fact that humanism is a worldview which is 'analogous to religious views', the name of the subject should be amended to recognise this broadened scope.

Whilst we do not wish to see the various religions and non-religious worldviews examined with any less rigour, we would like a name that is more thematic and values-led, focusing on the study of important moral and ethical issues, different perspectives on those issues, and encouraging children to grapple with them.

Given this, it has long been our view that religious education should be renamed to more accurately reflect both the nature of the subject we want to see and its inclusive nature. Other names for the subject already exist. In Scotland, 'religious and moral education' is taught. This is not, in our view, the best solution, both because it fails to address the exclusion of non-religious worldviews, and because it might imply that moral questions are exclusively within the realm of religion, which is clearly not the case and presumably not the intention. It had been suggested by the previous Minister for Education that RE in Wales be reformed into 'religion, philosophy, and ethics', which is better, but still does not fully response these issues.

Our preference would therefore be for a subject name along the lines of 'beliefs and values'. 'Religions and worldviews' would also be better, as it would be accurate and inclusive, albeit not putting that values-led emphasis first and foremost.

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<sup>11</sup> Witness statement of David Voas, (R) Fox vs Secretary of State for Education, 2015: <https://humanism.org.uk/wp-content/uploads/BHA-WS-Voas-0016.pdf>

## **Collective worship**

Collective worship has been entirely excluded from the consultation on curriculum reforms. This is despite the fact that the outdated requirement for daily worship that is 'wholly or mainly... Christian' both contradicts the new legislation and fails to uphold the UN Convention on the Rights of the Child's requirement for freedom of belief.

Assemblies are an important part of the school day and to continue with collective worship contradicts much of the rationale for the new curriculum and risks diminishing the impact of the important changes being made. We therefore strongly urge the Welsh Government to remove the requirement for collective worship in all Welsh schools and replace it with fully inclusive assemblies, respectful of all religions and beliefs.

## **Question 10. Do you agree with our proposals to make RE optional for learners in sixth forms?**

### **Yes**

As indicated in our response to question 8, the nature of religious education as it is delivered in some schools and sixth-forms with a religious character means that, unless the subject is reformed so that religious instruction is prohibited in all schools (or, at the very least, delivered separately from RE), compulsory RE for older pupils risks violating the right to freedom of thought, conscience and religion guaranteed by Article 9 of the ECHR. With this in mind, we support the position that schools must offer the subject, but that it remains optional.

## **11. Should the right to withdraw from RE and RSE be retained?**

Owing to the differences between RE and RSE highlighted in our earlier responses, this should be treated as two separate questions.

### **Right to withdraw from RSE - No**

First of all, it is worth being clear that there is not, at present, any right for parents to withdraw their children from relationships education – only from sex education. So the question, in asking whether the right to withdraw from relationships education should be maintained, is based on a false premise.

With that said, there should be no right for parents to withdraw their children from developmentally appropriate, factually accurate RSE. For reasons mentioned in our responses to questions 6, 7 and 8, it is a crucial subject for all children in Wales, and all schools should be following a national curriculum which outlines key learning outcomes for each stage of education. European case law has established that religious beliefs do not permit parents to claim a right to withdraw their children from RSE. In Denmark in 1976 parents tried to argue that their freedom to bring up children in line with their religion meant that compulsory SRE was unlawful, this was not held to be the case.<sup>12</sup> In a more recent case in Germany it was successfully held that parents can be fined for illegally withdrawing their kids from compulsory SRE.<sup>13</sup>

While it is vitally important to engage parents in their children's education and to recognise the role they will play in influencing the development of healthy relationships, in the context of RSE, the rights of parents must always come second to the independent rights and needs of children. For this reason, even if the parental right to

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<sup>12</sup> <http://r2e.gn.apc.org/node/656>

<sup>13</sup> <https://www.crin.org/en/library/legal-database/dojan-v-germany>

withdraw is retained for sex education (we can see no reason why parents ought to be able to withdraw pupils from relationships education at any stage), it is nevertheless important to give young people increasing levels of freedom to make their own decisions about what information about relationships and sex they wish to receive, especially when they reach the latter stages of their secondary education.

Indeed, here we recommend that the Government not only gives head teachers the power to override the wishes of parents under circumstances where to do so would be in the best interests of the child but also, once pupils have reached a sufficient level of maturity to make such decisions for themselves, to decide when older pupils (which at least should be those aged over 15) may opt themselves in to RSE classes. We note that this is the precise approach the UK Government is currently taking with respect to England, and it is doing so because it believes it is the only approach it can take that is in keeping with the law around Gillick competence.<sup>14</sup>

### **The right to withdraw from RE - Yes**

For RE, simply put, any reading of case law and any assessment of its implications leads to the conclusion that it is not yet possible to remove the right of withdrawal, and may never be so. If an RE syllabus was drafted so as to meet the highest standards in terms of being 'critical, objective, and pluralistic', the right of withdrawal might theoretically be removed – although we question in practice whether this is ever obtainable. We note for example a case decided by Belgium's Supreme Court – that never got to the European Court of Human Rights but was nonetheless based on our common European Convention on Human Rights – that concluded that, even if RE is not confessional, then the European Convention on Human Rights means the right of withdrawal must remain.

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With respect to RE we therefore encourage Welsh Government to focus its attention instead on a) improving RE so that withdrawal is seen as less desirable, and b) exploring how the right of withdrawal is managed and how parents can best be engaged with to clarify any misconceptions that they might have.

### **Managing the right of withdrawal in RE**

Regardless of the legal question, it is clear that both parents and schools should be given fuller guidance on religious education and the right of withdrawal. Even in the absence of evidence beyond the anecdotal, it is clear that misconceptions about the nature of the subject (outside of religious schools) exist among some parents and correcting these misconceptions should be a priority for schools and the RE community more broadly.

WASACRE has produced a document to help schools manage withdrawal, setting out the value and purpose of RE. The document should be widely available, to all teachers and parents.<sup>16</sup>

It is worth noting that whilst some withdrawal is clearly motivated by prejudice, particularly against Muslims, some withdrawal is provoked by religious education being

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/780768/Government\\_Response\\_to\\_RSE\\_Consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/780768/Government_Response_to_RSE_Consultation.pdf)

<sup>15</sup> [http://www.const-court.be/cgi/arrets\\_popup.php?lang=en&ArrestID=3863](http://www.const-court.be/cgi/arrets_popup.php?lang=en&ArrestID=3863)

<sup>16</sup> <http://www.wasacre.org.uk/publications.html>

approached by teachers (including outside faith schools) in a manner that would more accurately be described as religious instruction. We frequently receive contact from parents who have withdrawn or intend to withdraw their children from RE precisely as a result of this. As a point of fact, our standard practice is to encourage such parents not to immediately resort to withdrawing their children from RE, but instead first seek to address any concerns they have with the school – something that often leads to changes in practice and an amicable solution. However, it is also a fact that before providing whatever advice we are able to in these cases, we must first ask parents what type of school they go to. Herein lies a serious problem.

What level of knowledge about the legal framework of RE can we realistically expect parents to have? If they know that there are religious schools and schools with no religious character, can we blame them for assuming that the former can all teach ‘faith-based’ or confessional RE, while the latter cannot? Ought we to expect that parents know the difference between voluntary controlled and voluntary aided schools, and their respective RE obligations? And is it reasonable for them to know the constraints under which community schools operate, where these constraints are statutory, and where they are not?

The point of raising these questions is that some of the misconceptions that parents have about RE are the product of an incredibly complicated education system and RE framework. It is a framework that allows some schools to provide the kind of RE that parents might justifiably wish to withdraw their children from, and grants others levels of freedom over their RE provision that might justifiably make parents nervous. Ultimately it is this issue that needs to be addressed if concerns about the right of withdrawal are to be dealt with. We would suggest that a recommendation to change the law so that all schools, including religious schools, must teach objective, critical, and pluralistic RE, to use a phrase found in case law related to the subject,<sup>17</sup> would be a good start.

## **12. If the right to withdraw is to be retained, should it remain with the parent (parent includes those with parental responsibility or those who have care of the child)?**

### **Right to withdraw from RE**

As previously noted, we do not believe it is right that only parents are able to opt their children out of RE, while children, particularly those who are Gillick competent, themselves enjoy no such right. This limits the rights of children to freedom of thought, conscience, and religion, as enshrined by Article 9 of the ECHR, and fails to reflect ECHR case law on Gillick competence. This establishes that once a child obtains sufficient understanding and intelligence to be mature enough to make up their own mind on the matter, a child’s right to make their own decisions overrides their parents’ rights over them. The lack of any opt out for children is also out-of-step with the fact that young people are able to withdraw themselves from collective worship at age 16. We therefore believe that a similar right of withdrawal should exist in relation to RE, though the age at which this right can be exercised should certainly be lower than 16, if indeed it should

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<sup>17</sup> See *Fox v Secretary of State for Education*:  
<https://www.judiciary.uk/wp-content/uploads/2015/11/r-fox-v-ssfe.pdf>

have a firm age attached to it at all. We note that the UK Government has decided that for RSE, Gillick competence means that the age should be no higher than 15.<sup>18</sup>

### **Right to withdraw from RSE**

As our answers to questions 6, 7, 8, and 11 make clear, the importance of comprehensive, factually accurate, objective RSE cannot be overstated. For this reason, we do not think the parental right to withdraw from sex education should be retained, and it certainly should not be extended to cover relationships education. However, if it is retained, pupils must be provided with the opportunity to receive these lessons in the later stages of their education. We think the best way to facilitate this will be to change the law so that pupils who are considered by their head-teacher to demonstrate Gillick competence or are aged 15 or over (whichever comes first) are legally entitled to opt-in to RSE irrespective of their parents' wishes. We note that the UK Government has decided that this approach is necessary from a human rights point of view. In order to make sure that older pupils don't miss out on this vital part of their education as a result of undue parental pressure or earlier parental withdrawal, sixth form pupils should receive mandatory RSE.

### **13. If the right to withdraw is removed, what alternative, if any, should be in its place?**

#### **Right to withdraw from RE**

In the current context, we do not think it is possible to remove the right to withdraw from RE since this could only be attempted if the classes on offer met the legal standard of being 'critical objective and pluralistic' in all schools.<sup>19</sup> This would particularly affect the nature of RE in religious schools. However, since, for reasons outlined in our response to question 11, meeting this standard cannot be guaranteed, there is currently no alternative than to allow the right to withdraw within the constraints noted above.

#### **Right to withdraw from RSE**

As demonstrated through our other responses, there is no reason to provide an alternative to factually accurate, objective, comprehensive RSE. However, in order to protect the rights of children, legislation must ensure that this is what is provided by schools. There should be no right for schools with a religious character (or teaching large numbers of pupils from a particular religious background) to change the content of RSE so that it fits with a particular religious doctrine or to omit certain content on the grounds that there may be faith-based objections from parents.

### **18. Do you agree with our approach for the RIA? Is there anything else you think we should take account of?**

Although this falls somewhat outside of the scope of our expertise, from our perspective, the approach taken to the RIA appears accurate and focuses on the correct range of stakeholders/'Strategic Delivery Partners'. We fully support the decision to provide a working document to be developed in-line with the consultation process. However, we would hope to see a more comprehensive version that pays specific attention to how the changes will affect each of the stakeholder groups, as well those

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/780768/Government\\_Response\\_to\\_RSE\\_Consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/780768/Government_Response_to_RSE_Consultation.pdf)

<sup>19</sup> Again, as per *Fox v Secretary of State for Education*.

with the full range of protected characteristics, before the legislative changes are implemented. Further, we refer to our comments under question 19.

**19. Do you agree with our approach for the Impact Assessments? We would particularly value your view on the proposed impacts on groups with protected characteristics**

Here we focus solely on the impact assessments pertaining to RE and RSE and comment only on the 'social impacts' as 'costs and savings' fall out of the scope of our knowledge and expertise:

**RE Impact Assessment**

We agree with the view that the provision of fully inclusive, objective RE lessons will assist pupils to 'live and work well with people with different worldviews from themselves'. Given the increasing numbers of non-religious people in the UK, the inclusion of non-religious worldviews such as humanism on an equal footing with religion will have a particularly important role in ensuring that pupils from all backgrounds feel acknowledged and included in such lessons. The legislative changes to RE will have the impact of drawing the regulations into line with the Human Rights Act in a way that prevents disputes about who may participate in decision-making processes about the subject (e.g. by sitting on SACREs and ASCs), thus ensuring that non-religious people are not discriminated against. This will also mean that the requisite bodies are able to focus their attention on issues related to the development and delivery of RE syllabuses rather than disagreements about the make-up of those committees.

In sum, the proposals will have a particularly positive impact on non-religious pupils and members of SACREs/ASCs, but they will have a positive impact on pupils of all religions and beliefs by enabling schools to better fulfil their duty, under the public sector equality duty, to 'foster good relations between persons who share a relevant protected characteristic and persons who do not share it.'

As noted above, questions about financial costs largely go beyond our expertise, however, it is vital that the funding earmarked for the Catholic Education Service and the Church in Wales to 'develop guidance that gives regard to the Humanities AoLE in order to make links between the relevant denominational syllabus and the AoLE itself' is used to advance inclusive Religious Education, not simply prop up partisan versions of the subject which do not pay sufficient attention to other worldviews.

**RSE Impact Assessment**

We think the introduction of compulsory RSE will have a positive impact on young people with a range of protected characteristics, including LGBT pupils, women and girls, and people with disabilities. All the best evidence shows that teaching about different types of relationship, including sexual relationship, consent, and the advantages of delaying sex, leads to young people being healthier, happier, and safe. RSE can also play a very important safeguarding role.

We agree that the 'existing legislation around sex and relationships education in Wales is outdated and not fit for the current world in which children and young people exist'. For this reason, it is essential that the legislation is updated to ensure that these children and young people receive a statutory, standardised curriculum which is developmentally appropriate and enables them to stay healthy, happy, and safe. It is

true that the introduction of such a curriculum will require a high degree of commitment from teachers and school leaders. However, the risks of not providing this curriculum, particularly to marginalised groups (e.g. LGBTQ people or women and girls) as well as members of insular religious communities where issues (perceived to be) related to sex are treated as taboo, far outweigh the costs of making these changes (see our responses to questions on RSE for further detail).

As is evident from various controversies arising from the introduction of statutory RSE in England,<sup>20</sup> it is possible that some groups will attempt to stymie the new RSE curriculum (or any proposal to remove or amend the parental right to withdraw) on religious grounds. For this reason, the impact assessment relating to withdrawal (which is not yet included on the grounds that it is still under consultation) must give due weight to the rights and interests of children (including their own freedom of religion or belief, as well as other protected characteristics like sex, sexual orientation, and gender identity) in its analysis of the possible effects of the policy. Religious groups of all kinds include individuals with the full range of protected characteristics, and of course young people frequently decide during the course of their education that they hold a different religion or belief from their parents. So this should be kept in mind when making decisions about who should learn what and all children must have the opportunity to receive factually accurate, non-judgemental RSE as part of their broader education.

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

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<sup>20</sup> See, for instance, this petition that was discussed in a recent Westminster Hall debate:  
<https://petition.parliament.uk/petitions/235053>