

THE EDUCATIONAL INSTITUTE OF SCOTLAND

Religious Observance in Schools (RO): Scottish Government consultation on changes to the guidance

February 2017

Background to this consultation

The Scottish Government Learning Directorate contacted the EIS in November 2016 to intimate its intention to consult us on a revision to its guidance on Religious Observance (RO) in schools. The guidance in question is from 22 February 2011, and takes the format of a letter to Directors of Education/Headteachers, from the Scottish Government, headed 'Curriculum for Excellence – Provision of Religious Observation in Schools'.

The current consultation arose from a campaign by the Humanist Society Scotland (HSS). In September 2016, HSS served a petition for Judicial Review on Scottish Ministers to challenge certain aspects of the Scottish Government's position on RO. The petition was since narrowed in scope, with the remaining point relating to a request that the Scottish Government's guidance on RO make clear mention of children's rights in any decisions about withdrawing from RO.

In correspondence with HSS in June this year, the Scottish Government confirmed the current policy and guidance position. This letter restated the position regarding the legal right for parents to withdraw children, and added that: "*many schools will find it helpful and sensible to include young people in any discussions about opting out, ensuring their wishes are aired. This seems especially relevant as young people become older and take more responsibility for their own learning.*"

The Scottish Government then agreed to seek to reflect the substance of this additional commentary in a revised version of the RO guidance letter. It announced that it would hold a consultation on a revision to the 2011 guidance, in particular to make clear mention of the role of children and young people in decisions about their education, specifically in relation to any decisions about withdrawing from RO.

In February 2017, the Education Committee noted that the EIS had received a further letter from the Learning Directorate to ask for our views on revisions to the Scottish Government's guidance on Religious Observance. That letter noted that:

- this is **not** a review of the legislative provisions underpinning the provision of Religious Observance in schools
- this does **not** mark a shift in Scottish Government policy
- the proposed revisions to the guidance serve two purposes, namely:
 1. To ensure that readers are clear that young people should be involved in decisions about RO in their education;
 2. To bring references and language up-to-date and provide additional clarity where it is thought that this is needed.

Comments on proposed revisions to the guidance letter were sought by 24 February 2017. Our submitted comments are at Annex A of this paper.

Current EIS position on Religious Observance

The EIS Council, at its meeting of 30 September 2016, carried a motion on RO, as follows:

"That this Council resolve that the EIS should publicly support the right of 16-18-year-old pupils in Scottish schools to decide for themselves whether or not to participate in religious observance in schools."

It is therefore EIS policy that we support the right of 16-18-year-old pupils to opt in or out of Religious Observance.

However, in addition, our policy in terms of younger pupils was elaborated in our response to a 2003 consultation on RO, in which we said, *"the right of pupils at a suitable point in their development (probably around the age of 12) to withdraw themselves from RO must be recognised"*.

This 2003 consultation response is our most substantive comment on RO provisions and as such represents the best statement of our current policy, when read alongside the 2016 Council motion above. The key messages of the 2003 paper were that:

- We consider that it will be necessary to consider the legal status of RO, as the statutory requirement is based on earlier legislation dating back to the period when the government assumed direct responsibility for the provision of universal elementary education while continuing to recognise in various ways the role of the major Christian denominations in education (and in one case the role of the Jewish faith).
- The issue of religious observance must be considered in the context of an inclusive society whose citizens are participants in a wide range of cultural traditions, which are not themselves static; many of these citizens are adherents of one of many different faiths; many others are adherents of no faith.
- The definition of religious observance through legislation and the restriction of any development through the requirement to carry out a poll of local electors, are no longer appropriate within an inclusive multi-ethnic and multicultural society such as Scotland in the early years of the 21st century.
- We agree that the aim of religious observance is to 'promote the spiritual development of all the members of the school community' but with the caveat that for some members of a school community there may be a tension between spiritual development and the expression and celebration of shared values.
- We think that the frequency of primary and secondary pupils being given an opportunity to participate in religious observance is a matter to be determined by the school community taking into consideration the ethos of the school, the views of staff, the views of parents and, where appropriate, the views of pupils.

- The right of parents to withdraw their children from religious observance in schools must be maintained in any future arrangements; in addition, the right of pupils at a suitable point in their development (probably around the age of 12) to withdraw themselves from religious observance must be recognised.
- The right of school staff (teachers and support staff) to withdraw from religious observance, whether on a particular occasion because of the nature of the event, or from all religious observance because of their philosophical and ethical views, must be recognised. These rights should not be constrained by practical issues of supervision or accommodation.
- To give schools the maximum opportunity for provision of religious observance, they need adequate physical space; time set aside within the school day; support from the school community; and commitment from the senior management team.
- The legislation limits inclusiveness.
- We believe that the term 'Religious Observance' may be off-putting to some people and encourages a continuation of the confusion between Religious Observance and Worship.
- Many may have difficulty with the term 'Spiritual Development' which has different meanings for different groups of people. The stress should be on honestly finding and developing personal values; in this context the avoidance of the word 'religious' may permit a more inclusive approach.
- The issue of shared values will require schools and the educational establishment to determine what these values are. The difficulty of this task should not be underestimated if facile answers are to be avoided.
- We believe that all members of the school community should have the opportunity, time and space for silence and reflection, reflecting on a focus, which will allow them to develop themselves.

A 2014 AGM motion requesting that the EIS "*support moves to replace the legal requirement for schools to provide Religious Observance with Time for Reflection*" was remitted for consideration by the Executive, which agreed in January 2015 to ask the Education Committee to update existing EIS policy on RO. The proposed updated policy will be brought to a future Education Committee for discussion in due course.



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EIS comments on proposed revisions to the Scottish Government guidance on Religious Observance

February 2017

The EIS welcomes the opportunity to comment on proposed revisions to the guidance on religious observance (henceforth RO).

We note that there are five proposed revisions to the guidance, and that these broadly concern:

1. Setting the guidance in an updated context
2. Clarity about the definition of RO and about the equal validity of 'Time for Reflection'
3. The importance of schools communicating effectively about RO plans
4. Clarity about the relevance of young people's views in any discussion about withdrawal from RO
5. Re-numbering, formatting and nomenclature updates.

Our views on each proposed revision are below. In addition, we wish to make a number of general comments and observations, focusing in particular on recognising that many people have no faith/belief; frequency of religious observation; facilities; and staff right to withdraw.

Comments on proposed revisions

Proposed revision 1

We support this change. It is important and helpful for teachers using this guidance to have quick links to related guidance, as many teachers lack time or IT resources to easily find reference documents. (We note that the link in the current draft to CfE briefing paper 16 is not correct, due to changes to the Education Scotland website; and that there is no link provided re: the 2012 regulations. Likewise, links should be provided to the policies on RME in non-denominational schools, and on Religious Education in Catholic schools.)

Proposed revision 2

We support the change to this text, as the broadening out of terminology to convey a more inclusive approach, in which schools are enabled to select the most appropriate term for their provision of RO, is welcome.

We also welcome the proposal to make this section more prominent, as setting out definitions at the outset is helpful. However, we would suggest that the wording be changed slightly, to "...all aspects are equally relevant when the terminology 'Time for Reflection', **or equivalent**, is used". This should consolidate that the intention is to enable schools to define RO in ways which are meaningful to their contexts and communities.

Proposed revision 3

We support this change. It is helpful to have clarification that RO should be subject to the same kind of communication that pertains to other aspects of school provision. Communication about RO is particularly important given that parents have a right to withdraw pupils from this; and that young people may increasingly wish to withdraw themselves. People cannot exercise rights they are unaware of holding. Good communication also enables good planning, which is vital in a climate whereby teachers have heavy workloads and multiple competing demands.

Proposed revision 4

We support this change, to an extent, but believe it could be strengthened. It is vital for schools to take a participative, consultative approach to RO which is compliant with human rights approaches. Clearly stating that children should be included in discussions about aspects of their school experience is sensible, but insufficient. We would wish to see the wording of this statement strengthened.

EIS policy is to support the right of pupils in Scottish schools at a suitable point in their development to decide for themselves whether or not to participate in religious observance in schools. This capacity to decide to withdraw may be present from around the age of 12, and certainly by the age of 16-18. We also acknowledge that younger pupils in certain circumstances may wish to exercise this right, and that this right must be recognised.

We note that the UNCRC stated in 2016 that pupils should be able to independently exercise the right to withdraw from RO, in its concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland. The UNCRC did not limit this right to pupils of any particular age. It was critical of the situation in England where only 6th form pupils have the right to withdraw. We note that the Scottish Government has obligations under Articles 12 and 14 of the UNCRC and the Children and Young People Act (2014), and we are not convinced that paragraph 20 as proposed is fully compliant with those obligations.

We would wish to stress that in making suitable alternative arrangements, cognisance should be taken of teachers' Working Time Agreements; for example, teachers in the primary sector in particular should not be asked to surrender designated non-class committed time to supervise/ provide alternative activities for pupils who have chosen to withdraw from RO.

Proposed revision 5

These are sensible changes. We particularly welcome the aspects which reflect a more inclusive approach (e.g. the changed heading to 'Diversity', and the use of 'Faith/Belief Representatives' rather than 'Chaplains and other Faith Group Leaders').

Other general comments

Inclusion of people with no religion

We note that the guidance says in paragraph 8 ('Diversity') that Scotland has many faith and belief traditions. It does not say that it also has many people who have no faith or religious belief. We note that a recent Scottish Social Attitudes survey (2016) found that 52% of the population of Scotland said that they are not religious, compared with 40% in 1999. This figure may well be higher for children of school age, as the National Centre for Social Research says that "each generation of Scots has been less likely to identify with a religion".

We would expect the guidance therefore to make reference to people with no religious belief, at various points, e.g. in paragraph 8 and paragraph 11.

We also suggest that more explicit mention could be made of the increasing diversity of Scottish society, which has welcomed nearly 4,000 refugee children and over 1,500 asylum seeking children in the past two years, as well as economic migrants from a wide range of countries. Scotland is becoming a more ethnically diverse country, and with that diversity comes a host of religious views and beliefs, which has significant implications for providing inclusive RO.

We believe that faith and belief perspectives from many diverse traditions should be equally valued in Scottish schools.

Frequency of religious observance

We do not agree that the guidance needs to specify the number of times that RO should be provided. This is unduly prescriptive. We think that the frequency of primary and secondary pupils being given an opportunity to participate in religious observance is a matter to be determined by the school community, taking into consideration the ethos of the school, the views of staff, the views of parents and, where appropriate, the views of pupils.

Equality Act

We think that the guidance should mention the Equality Act 2010, as an important piece of context. This is the primary legislation which pertains to discrimination on the grounds of religion or belief in the UK, and as such should be referenced in the guidance.

Facilities

We agree with the recommendation at paragraph 25 that appropriate facilities need to be provided for RO, but we are not aware of any new-builds or refurbishment projects where this aspect has been considered, except for

denominational schools. Indeed, in some new schools, which have moved towards open plan layouts, it may be more challenging now to provide the opportunity, time and space for silence and reflection. If the Scottish Government genuinely intends to encourage participation and diversity then the provision of adequate facilities needs closer attention.

To give schools the maximum opportunity for provision of religious observance, they need adequate physical space, which takes account of the needs of different faith groups in its design; but beyond that, schools also need time set aside within the school day; support from the school community; and commitment from the senior management team.

Terminology

We are not convinced by the term 'spiritual development'. For some members of a school community there may be a tension between 'spiritual development' and the expression and celebration of shared values. We would prefer a broader, more inclusive term to be used, e.g. Spiritual, Moral, Social and Cultural development. Many issues can be raised during RO/Time for Reflection, including moral issues and community issues, and it would be wise to avoid conflating these moral/cultural issues with faith-based spirituality.

Rights of staff

We believe that the guidance should contain explicit mention of the right of staff to withdraw from RO. The right of school staff (teachers and support staff) to withdraw from religious observance, whether on a specific occasion because of the nature of the event, or from all religious observance because of their philosophical and ethical views, must be recognised. These rights should not be constrained by practical issues of supervision or accommodation. In the current climate, in which teacher shortages are creating serious difficulties in schools, with many of our members describing the current situation as a 'cover crisis', this is particularly important to state in very clear terms. It would be unacceptable for members to be obliged to take part in RO because of practical issues. This also related to the right of staff not to take on additional duties of supervising children who have withdrawn from RO, unless this is negotiated as part of a Working Time Agreement.

Concluding paragraph

We welcome the inclusion of reference to self-evaluation and of the School Improvement Plan, and of the need to take account of the views of staff, parents, pupils and partners, in the concluding remarks in paragraph 29. These are sensible changes which reflect the consultative, reflective, approach taken by schools in developing their provision.

Legal basis for RO

We consider that whilst updated guidance is useful in the short-term, in the longer term it will be necessary for the Scottish Government to consider the legal status of RO. The statutory requirement is based on earlier legislation dating back to the period when the government assumed direct responsibility for the provision of

universal elementary education while continuing to recognise in various ways the role of the major Christian denominations in education (and in one case the role of the Jewish faith). We question whether RO still needs statutory underpinning.

More information

For more information on this submission or if you have any queries, please contact: