

Gary McLelland
Head of Communications and Public Affairs
Humanist Society Scotland
Hayweight House
23 Lauriston Street
EDINBURGH
EH3 9DQ

13 June 2016

Dear Gary

Thank you for your letter of 10 March asking for the Scottish Government response to the recent decision by Mr Justice Warby. I hope you found our meeting on 2 March useful, we are keen to keep an open dialogue with you and the Humanist Society Scotland. Please accept my apologies for the delay in replying.

The Scottish Government notes the judgement of Mr Justice Warby and the summary of the ECHR jurisprudence that it contains.

The Scottish Government is conscious of its obligations under the ECHR as developed by the Strasbourg Court and considers that it is in compliance with these obligations, including in relation to its policy on religious observance as set out in the guidance issued on 21 February 2011 to reflect the implementation of Curriculum for Excellence. This guidance is intended to assist local authorities and schools when curriculum planning and makes it clear that the guidance and Curriculum for Excellence operate alongside statutory duties on local authorities to provide religious instruction¹ and religious observance under section 8 of the 1980 Act.

The Scottish Government considers that this existing legislative framework, Curriculum for Excellence and Scottish Government guidance about religious and moral education and religious observance ensure compliance with Article 9 of, and Article 2 of the First Protocol to, the ECHR.

Scottish Government guidance on both religious and moral education and religious observance as well as Curriculum for Excellence makes it clear that, in Scottish schools, learning and teaching must take place in a pluralistic manner that accords respect to both religious and non-religious beliefs. The 'principles and practice' and 'experiences and outcomes' documents under Curriculum for Excellence for both Religious and Moral Education and Religious Education in Roman Catholic Schools also refer expressly to the value of covering non-religious beliefs.

As such, the Scottish Government does not consider it necessary to update its guidance in the form of a new circular to Headteachers, at this time.

In relation to the parental right to withdraw, Section 9 of the Education (Scotland) Act 1980 gives parents a right to withdraw their child from religious and moral education and religious observance in local authority schools and grant-aided schools.

As stated in the guidance issued in 2011 in relation to both religious and moral education and religious observance, schools should provide parents with sufficient information on which to base a decision about whether or not to exercise this right. In doing so, schools must ensure that parents are aware of the content of the religious and moral education and religious observance that the school wishes to undertake since, without this aspect of their education, learners will not enjoy the full benefits of Curriculum for Excellence. Making parents aware of the content of the religious and moral education that the school provides will involve highlighting its pluralistic nature.

There is no equivalent statutory right to withdraw afforded to children and young people. However 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 is conscious of its international obligations under the UNCRC and its duties under section 1 of the Children and Young People (Scotland) Act 2014 and will keep under consideration whether there are any steps Ministers could take – such as publishing revised guidance – which might secure better or further effect to the UNCRC in Scotland in this context, with particular reference to Article 12.

Yours sincerely



SUE LANGLANDS

ⁱ Religious and Moral Education is referred to as Religious Instruction in the Education (Scotland) Act 1980.