

Response to East Lothian Council Consultation: Voting Rights of Unelected Representatives on the Education and Children's Services Committee

8 November 2023

At Humanist Society Scotland we are committed to representing the views of Scotland's growing non-religious community. Research from February 2022 shows that 67% of people in the Lothians Scottish Parliament region are non-religious and we expect the publication of the 2022 census results in 2024 to replicate these findings. We have a membership of over 17,000 people in Scotland, with an active humanist group meeting across Scotland every month. We also provide humanist funerals and weddings across East Lothian every year, helping people mark key life events according to humanist principles and beliefs.

We are very pleased that the council is undertaking a consultation to seek views on the role of religious representatives. We feel this shows a commendable desire to engage properly with public opinion on an important matter of local government policy. It is fair that council members hear from, and consider, a wide range of views. It should also be noted that in the context of the council's public sector equality duty, not being a member of a religious group is a protected characteristic in the same way as being a member of a faith group.¹

Why religious votes should be removed

We would like to explain why Humanist Society Scotland feels the current arrangement regarding religious representatives' voting rights is undemocratic and unrepresentative, and how this problem can be solved.

Firstly, there is fundamental question for councillors to consider here regarding democracy and accountability within the decision-making process on local education. Religious representatives are appointed by faith groups with no direct accountability to the East Lothian electorate. Yet they still have voting rights on decisions that affect the lives of many of East Lothian's citizens: not just on issues affecting denominational schools but on all education business, including management of the non-denominational school network. This is a particularly important topic given that the proportional representation system used to elect council members means that non-elected voting committee members can hold the balance of power on key decisions. In Perth and Kinross, for example, a vote on school closure went against the majority view of elected councillors because of votes cast by religious representatives.

Secondly, the provision of three spaces does not take into account the range and complexity of beliefs and views across the region. There are currently three places for religious representatives on East Lothians's Education and Children's Services Committee. At the time of the last census, over ten years ago, there were 190 different religious denominations

¹ Equality Act (2010) Section 10: '(1) Religion means any religion and a reference to religion includes a reference to a lack of religion. (2) Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.'

reported by the public across Scotland. Given other published research on religious diversity such as the findings of the England and Wales 2021 Census, this diversity is likely to have increased in the intervening years. It would be impossible to reach a position where every relevant denomination and belief group was represented on your education committee.

Thirdly, it is unfair for religious and belief groups to have special privileges when many other non-governmental organisations have relevant views and knowledge regarding education in East Lothian. For example, third-sector organisations and community groups may well have relevant opinions and input on schooling and education but they are afforded no committee spaces or voting privileges.

Our second and third points do not imply that the range of groups and individually directly represented on the Education and Children's Services Committee should be increased. Rather, it is the role of elected councillors to take the varying views just listed and more into account when making decisions: that is the proper and democratic way to run government. Councillors are elected by the people of East Lothian to represent them and to make decisions, and they are held to account for those decisions through local elections.

Practical steps to removing religious votes

It is important to emphasise, as you know, that there is no legal duty or binding precedent for religious representatives on your education committee to have voting rights. We accept that councillors are under a statutory duty to appoint these representatives, through the Local Government (Scotland) Act 1973. But the Scottish Government clarified in 2019 that there was no obligation for these representatives to have voting rights, and it is in your gift to remove them.² A number of local authorities such as Perth and Kinross, Moray, Orkney, Highlands, Edinburgh, Stirling, and Borders have removed religious representatives' voting rights; other councils are currently considering doing so.

An alternative approach

We mentioned earlier a solution to the issue of undemocratic religious votes on local education committees. To return to that point, we believe the role of religious representatives on local education committees should be close to that of an observer, able to offer relevant opinions and views where relevant, but without the power to override the views of democratically elected officials.

Inaccuracies in religious representations on school votes

We are aware that you will receive representation from the Archdiocese of St Andrews and Edinburgh regarding this matter. However, statements made by the church leadership on this matter contain a number of inaccuracies that should be corrected.

² <https://www.humanism.scot/2019/04/24/schoolreprsvotes/>

For example, in their submissions and statements on this matter Archdiocese representatives often refer to “the denomination in whose interests the school is being run.” This fails to acknowledge that all schools, including denominational ones, have a wider legal responsibility for all children to be accommodated, whether or not they are a member of said denomination. Denominational schools are not, as some would suggest, religious schools for religious families.

The Archdiocese has also referred in the past to a “legally binding contract” between the Catholic Church and the state. There is no such contract. An act of parliament from 1918 allows for the state to operate a system of denominational schools, including Episcopal, Jewish, and potentially other types of schools. This is not the same as a two-way “contract” that would bind the state in perpetuity. In fact, the current situation reflects the desire of legislators in 1918 to assist pupils in schools that were under-resourced. The historical and parliamentary records of the time show concern for the condition of schools run by such religious groups, as well as the quality of the teaching, which was widely recognised as poor. The state was therefore motivated by concern for children rather than the needs of the church to establish the denominational school system.

The Archdiocese has also implied on this topic that the appointment of religious representatives to local education committees was a “key part of the arrangement” of the state running denominational schools. This is not the case. The provision placing church representatives upon education authorities was included in the Local Government Act 1929, passed eleven years after the 1918 act transferring denominational schools to the state.

The Church of Scotland have likewise shared their position on votes for church representatives in the media. They note that because these votes are not often utilised the issue is not an important one. They also note that many representatives bring a wealth of knowledge as retired teachers or through other education roles. Of course this fundamentally misses the question of democratic accountability and the reason for the church reps having a voting right in the first place. The representatives of the church - as experienced as some of them may be - are sitting on your committee by virtue of their faith and their faith alone. They are not appointed through a recruitment process on the basis of qualifications, nor are they accountable to the people of East Lothian.

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We ask, for all the reasons stated above, that you commit to removing religious representatives’ voting rights. We are aware of East Lothian’s reputation for democratic institutions and processes. This must apply to all aspects of the council, including the procedures of the education scrutiny committee.

Humanist Society Scotland, November 2023.