Humanist Society Scotland

For an ethical future

[Briefing] Proposed Bill on religious observance and religious education in schools

Humanist Society Scotland is a registered charity that promotes Humanist values to people in Scotland, campaigns for an ethical, rational and secular future and gives voice to the millions of people in Scotland who live without religion. Our network of over 140 registered celebrants conducts thousands of weddings, funerals, and naming ceremonies for people to celebrate key life events in line with their personal beliefs and values.

Key Points

- School pupils in Scotland currently have no right to independently opt out of religious observance (RO), no matter their age, maturity or personal beliefs.
- Parents have always had the right to withdraw their children from RO. However, **the UN Committee on the Rights of the Child** is clear that the status quo in Scotland does not go far enough to uphold children's right to be heard (Article 12) and freedom of thought, religion and belief (Article 14).
- The Scottish Government is consulting on a proposed Bill on the right to opt-out of RO at school. If passed, the Bill would amend Section 9 of the Education (Scotland) Act 1980 to place current guidance that asks schools to consider pupils' views on RO and RME into legislation.
- The proposed Bill includes no commitment to introduce a pupil opt-out and the final decision on attending religious worship would still rest with parents and teachers. **The legislation would give young people a voice, but no choice.**
- In addition, Ministers' plans fall far short of what is required to comply with their own landmark childrens' rights legislation.
- Humanist Society Scotland is calling on the Scottish Government to listen to the UN and introduce a pupil opt-out for RO. Our position is shared by the children's rights charity **Together Scotland**, the **Children and Young People's Commissioner Scotland** and the **Scottish Youth Parliament.**

What is religious observance and who has the right to opt out?

Scottish schools are required by law to provide religious observance (RO) with guidance noting this should happen 'sufficiently frequently'. In practice, this is usually an organised act of worship where pupils attend a religious service or presentation by a faith leader. In non-denominational schools, RO is most often delegated to Church of Scotland clergy. The current requirement for religious observance gives primacy to the Christian faith and constrains teachers' ability to properly include pupils of all faiths and belief systems.

Religious observance should not be conflated with Religious and Moral Education (RME). If delivered inclusively, in line with the national curriculum experiences and outcomes and without favouring any one faith, RME is an important part of the school curriculum that helps children understand the diversity of faiths, beliefs and perspectives around them. We do not favour an approach that allows withdrawal from RME.

Up to now, Section 9 of the Education (Scotland) Act 1980 has allowed parents to withdraw their children from religious worship at school. Pupils have no equivalent right to opt-out themselves, no matter their age, maturity or personal beliefs. **The status quo is problematic for three reasons:**

1. **It denies young people the right to be heard.** This is enshrined under Article 12 of the UN Convention on the Rights of the Child (UNCRC), which specifies childrens' right to express their views, feelings and wishes on everything that affects them, and for that to be taken seriously. National guidance asks schools to be mindful of pupils' views on RO, but those views can ultimately be ignored by their teachers and parents. Young people have a voice, but they don't have a choice.

2. **It breaches young peoples' right to freedom of thought, religion and belief.** UNCRC Article 14 specifies that children have the right to think and believe what they choose, and are free to be of any or no religion. And while parents' role in guiding their children's beliefs is recognised by the UNCRC, neither they nor teachers can force a child to adopt a religion or, in this case, engage in religious worship at school.

3. **It is inconsistent with the approach taken to young people in Scots law.** 16-year-olds can vote, join the army, and leave school without the consent of their parents. Yet they can't choose to opt-out of religious worship at school.

Demographic changes also highlight the need to reform the opt out system for RO. Newly published census figures show that the **school-age population is now majority (60%) non-religious for the first time,** and more diverse in terms of faith and belief than ever before. And despite the focus on Christianity in the provision of RO, fewer than one in four pupils now identify with either of the historical dominant churches.

In order to ensure all young peoples' views, choices and beliefs are respected at school, the Scottish Government must comply with the UNCRC committee's longstanding recommendation and allow pupils to independently opt out of religious observance.

Who else supports the campaign for a pupil opt-out?

The United Nations Committee on the Rights of the Child has repeatedly called for the end of compulsory collective worship in state-funded schools in Scotland. In its 2023 concluding observations on the state of children's rights, it urged the Scottish Government and its UK counterparts to:

> **Repeal legal provisions for compulsory attendance in collective worship and establish statutory guidance to ensure the right of all children, including children under 16 years of age, to withdraw from religious classes without parental consent.**

Together, the Scottish Alliance for Children's Rights, has recommended a pupil-opt out from religious observance in five of its last six reports on the State of Children's Rights in Scotland.

The Children and Young People's Commissioner Scotland came out in support of a pupil opt-out in 2020, highlighting the incompatibility of current practice with the UNCRC. The Commissioner also called for a review to consider whether RO should be offered at all in non-denominational schools, or as an exclusively opt-in activity.

A joint letter in 2017 calling on the Education Secretary John Swinney to introduce a pupil opt-out was signed by numerous groups, including the **Scottish Youth Parliament**.

What has the Scottish Government proposed to comply with UNCRC?

In November, the Education Secretary announced that she intends to bring forward a narrow bill on religious observance and religious education. This would amend Section 9 of the Education (Scotland) Act 1980, which specifies the parental right to withdraw children from RO. According to the consultation paper, the amendment would:

> **require due weight to be given to the pupil's views when parents are exercising their right to withdraw their child from RO/RME, which would bring legislation into line with existing guidance on RO**.

Ministers have stated that the proposed change will **'ensure clarity and put the position in relation to UNCRC compliance beyond doubt as soon as possible'.**

What does the existing guidance on religious observance say?

The current guidance on RO/RME, published in 2017, included a new provision that asks schools to 'include children and young people in any discussions about aspects of their school experience, ensuring their views are taken into account'. However, the guidance also reaffirms that pupils have no right to opt themselves out of religious observance, with the final decision on withdrawal still reserved to parents and teachers.

At the time, **Humanist Society Scotland** and children's rights charity **Together** welcomed the refreshed guidance and considered the improved focus on pupils' views to be 'a step in the right direction'. However, both organisations were clear that pupils must be able to independently withdraw from RO and retaining the parent opt-out did not go far enough to ensure compliance with the UNCRC. Young people were given a voice, but they weren't given a choice.

Since 2017, the evidence from young people in Scottish schools shows that ensuring pupil voice is listened to on RO is best described as patchy across the country. In some notable cases which have been raised with the Humanist Society, young people's views have not been taken into account at all.

Our response to the proposed changes

We do not share the Scottish Government's view that their proposals are UNCRC compliant. A broad range of human rights organisations already agree that the current

school guidance does not go far enough to ensure childrens' right to be heard and freedom of thought, religion and belief are fully upheld. It is unclear how legislating to bring this guidance into law will ensure Ministers' are compliant with their own UNCRC Incorporation Act. In essence, the proposals would have no practical effect other than to reaffirm this breach of children's rights in the statute book.

The Scottish Government must go much further and table an amendment to Section 9 of the Education (Scotland) Act 1980 that gives pupils the independent right to opt out of religious observance. In recognition of the secular and religiously diverse profile of our school-age population, we would also favour moving to a solely opt-in system for religious observance.

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