[Briefing] Why the Supreme Court ruling on JR87 matters for religious observance in Scottish schools

Humanist Society Scotland is a registered charity with over 16,000 members 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.

Summary

- **Scottish schools risk legal action over their religious observance practices following the recent UK Supreme Court ruling on JR87 in Northern Ireland.**
- **The Court held that the requirement for collective worship in NI schools amounted to "indoctrination" and a breach of the Human Rights Act, even with a parental right to withdraw.** The judges ruled that the statutory opt-out right imposed an 'undue burden' on parents and risked stigmatising children in practice. In Scotland, the equivalent legal requirement for collective worship is known as religious observance (RO).
- Humanist Society Scotland research **found that RO in many non-denominational Scottish schools is still exclusively Christian and worship-based.** Parents, pupils, and teachers also report that the right to withdraw isn't accessible in practice. Such cases are a carbon copy of the Northern Irish experience that the UKSC ruled to be unlawful.
- The Scottish Government must now commit to an urgent review of national guidance and local authority practice to ensure RO in non-denominational schools is delivered in a human-rights compliant manner and meets the "objective, critical and pluralistic" standard required under the ECHR.
- Ministers must also amend their Religious Observance Bill at Stage 3 to give school pupils with capacity the independent right to withdraw from RO. Where RO teaches that Christianity is the truth, non-religious young people must have the choice to act in line with their conscience and opt themselves out.

Introduction

In November 2025**, the UK Supreme Court issued a landmark ruling that religious education and collective worship (religious observance) in Northern Ireland amounts to indoctrination and therefore a breach of the Human Rights Act.**

The UKSC found in favour of a humanist family that the exclusively-Christian RE and collective worship taught at their daughter's primary school failed to uphold their right to freedom of

thought, conscience and religion (ECHR Article 9) and the child's right to an education (ECHR A2P1).

The Court also held that **parental withdrawal was an insufficient mechanism for enforcing religious observance on children**, as it required pupils being pulled out of important communal activities like whole-school assemblies and often left with little alternative. The right of withdrawal can clearly be stigmatising where few other children are opted out.

Finally, the Court clarified that the **European Convention on Human Rights (ECHR) guarantees schoolchildren education in a form which respects their independent right to believe or not believe.**

What does the ruling on JR87 mean for Scottish schools?

Although JR87 concerned a school in Northern Ireland, Supreme Court judgements are binding across the UK. The Education Secretary has stated in response that the **"Scottish context is fundamentally different from Northern Ireland, both in terms of curriculum content and statutory framework"**.

This is true in respect of religious education. RME in non-denominational schools covers a variety of faiths and beliefs, including humanism, in an objective and critical way. Indeed, MSPs recently voted to remove the longstanding right to withdraw from RME given its importance in supporting children's right to an education (UNCRC Article 29).

But religious observance (RO) is not routinely delivered in an objective, critical and pluralistic way that includes pupils of all faiths and none.

Research published by Humanist Society Scotland **found that RO is still exclusively Christian and worship-based in many non-denominational schools.** RO assemblies are commonly led by local ministers who teach that Christianity is true and ask pupils to pray, sing religious songs, and affirm their belief in God.

The Supreme Court ruled in JR87 that religious observance which is not conveyed in an objective, critical, and pluralistic manner is unlawful. In the judgement, Lord Stephen states explicitly that: **"To teach pupils to accept a set of beliefs without critical analysis amounts to evangelism, proselytising, and indoctrination**."

The following testimonies are found in Humanist Society Scotland's report "Preaching is not Teaching - Insights into religious observance in non-denominational schools":

> *"We became aware that my daughter was being forced to pray because she told us how uncomfortable she felt. She was told by an adult very sharply that she was being disrespectful if she didn't go along with it. She was upset and embarrassed by this. This was when we started to ask her about the religion being taught in school."* - ***Parent***

> *"I don't like to go to the church with my school because it feels like I'm being forced to paint my room a colour I don't like. The minister doesn't use words like 'Christians believe' and instead uses words that imply it's a fact."* - ***Pupil***

> *"In a previous role, I had a pupil who became visibly upset by a particular song with the lyrics, 'I love God, God loves me,' and asked, 'If that's true, why did God kill my mum?' Being told he was loved by a God, when he had suffered such a devastating loss, was deeply distressing for him."* - ***Teacher***

So too, pupils, parents, and teachers report significant barriers to exercising the right to withdraw in practice. Their experiences reflect concerns raised by the UK Supreme Court in Northern Ireland.

The Court held that **a legal right to withdraw does not automatically ensure human-rights compliance** if exercising it is capable of placing an undue burden on parents and stigmatising pupils. Challenges highlighted in Scotland include **poor transparency about what will happen in RO assemblies, hostility when parents raise concerns, a lack of meaningful alternatives,** and **apprehension about withdrawing pupils for fear of stigma and exclusion**.

> *"In my child's school, all children regardless of faith are facilitated in singing songs affirming their belief in god and taken to church 3 times a year … For myself and my circle of 6 parent friends (all of us atheists), we feel that opting our kids out of assemblies and shows excludes them from valuable whole school events and can feel like a punishment for them, thus we put up with this archaic and non democratic system."* - ***Parent***

> *"The school has made out this is my problem – they say very few parents complain or opt their children out. When I raised my concerns with the headteacher, they replied: 'I won't apologise, this is a Christian country'."* **- *Parent***

> *"My child's school has never communicated that children can be withdrawn from RO. When I requested, I was told that all staff were needed to attend the church service, so no alternative arrangements could be made other than picking my child up from school prior to the start of the church service."* - ***Parent***

How should the JR87 ruling be implemented in Scotland?

The Supreme Court clarified in JR87 that States must take the utmost care to prevent information conveyed in schools from pursuing the aim of indoctrination. Sadly, this is not a

distant Northern Irish problem. Scottish schools are replicating the same human rights breaches identified in JR87 every day. That is, non-inclusive, proselytising RO practices combined with a burden-and-stigma withdrawal model.

Yes, Scotland's non-statutory guidance for schools on RO alludes to an inclusive approach. But as the judgement clarifies, what matters is what pupils and parents actually experience. Schools and local authorities remain exposed to legal challenges by parents and rights-bearing children and young people under the Human Rights Act framework, precisely because RO is a communal, compulsory-by-default experience from which pupils can be excluded and singled out. **In order to reduce the risk of rights-breaches as far as possible, the Scottish Government should commit to:**

- **amend the Religious Observance Bill at Stage 3 to give school pupils with capacity an independent right to opt out of RO.** However imperfect, the right to opt in or out of RO cannot be reserved to the parent where a child is capable of forming their own view. Children are independent rights-holders and must be able to act in line with their own conscience. The UNCRC committee and the recent interpretation of the ECHR in JR87 are clear on this point;

- **commission an urgent review of national RO guidance and local authority practice** to ensure RO in non-denominational schools is delivered in a human-rights compliant manner and meets the "objective, critical and pluralistic" standard required under the ECHR;

- set clear expectations for non-denominational schools that **pupils must not be asked to recite or respond to prayers, sing religious songs, or in any way affirm their belief in God;** and

- support schools to provide transparent information for parents and pupils about the content and format of RO activities, and **provide meaningful alternatives** for pupils who are withdrawn.

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