Cabinet Secretary for Education and Skills
The Scottish Government
St Andrew's House
Regent Road
Edinburgh

Humanist Society Scotland
For an ethical future

By Email

6 February 2026

Dear Cabinet Secretary,

The implications of JR87 vs. Department for Education on the lawfulness and right to withdraw from religious observance in Scottish schools

I am writing on behalf of Humanist Society Scotland, the national charity representing the non-religious majority in Scotland, ahead of Stage 3 proceedings for the Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill.

Firstly, this is a final request that the Scottish Government should support an amendment at Stage 3 to create a reciprocal, independent right for children and young people, where capable of forming a view, to withdraw from religious observance (RO). This is the only approach that is compatible with children's human rights, and it is the only approach that will provide a clear, equitable, and legally resilient settlement.

Over the course of Stages 1 and 2, a wide range of children's rights and human rights organisations set out the same core point: a scheme that only "hears" a child when a parent has already initiated withdrawal does not give effect to children's rights. Together (Scottish Alliance for Children's Rights), UNICEF UK, the Scottish Human Rights Commission and the Children and Young People's Commissioner Scotland were all explicit that the Bill, as drafted, fails to deliver the clear and specific independent opt-out repeatedly recommended by the UNCRC committee.

The Equalities, Human Rights and Civil Justice Committee's Stage 1 report also recognised that the Government's "middle ground" approach fails to provide full alignment with the UNCRC, and that a strong majority of the civil society organisations they heard from supported amending the Bill to provide an independent right to withdraw from RO.

From a children's rights perspective, the issue is straightforward. The UN Committee on the Rights of the Child has made clear that it is the child who exercises freedom of religion or belief, with the parental role diminishing as the child's capacities evolve, and it has called for legal provisions on collective worship to be repealed and for children, including those under 16, to be able to withdraw without parental consent.

Put simply: children and young people are independent rights-holders. This was clarified in the recent UK Supreme Court judgement on JR87 (19 November 2025). The Court was explicit that ECHR Article 2 Protocol 1 must be read together with Article 9 in the context of religion in schools. When read in this way, the European Convention guarantees schoolchildren the right to an education which respects their *independent* right to believe or not believe. A "right" that only operates when a parent triggers it is not an independent right. It will leave many children, particularly non-religious children, without any meaningful say on a decision that affects them. Nor will it offer any protection of their fundamental right to their own beliefs.

As a humanist organisation, we need to be clear about what is at stake for pupils who do not share the beliefs being promoted through RO. Where RO teaches that Christianity is the truth, the majority of pupils who don't follow this faith are placed in an impossible position: participate in religious worship they do not believe, or risk stigma and exclusion by being removed from shared school life. That is not consistent with the values of dignity, equality and inclusion that underpin the Scottish Government's longstanding policy of Getting it right for every child.

Secondly, the urgency of amending the Bill at Stage 3 has increased significantly since the UK Supreme Court's judgment in JR87. The Court held that Christian-only religious education and collective worship in a Northern Ireland primary school was unlawful because the information conveyed was not "objective, critical and pluralistic", and because the withdrawal arrangements could place an undue burden on parents and risk stigmatising the child. The judgment is binding across the UK, and it has direct implications for any system that relies on a parental opt-out as the primary safeguard against human rights breaches.

In your letter of 24 November 2025 to the Equalities, Human Rights and Civil Justice Committee you stated that the Scottish context is "fundamentally different" from Northern Ireland, and that you were not aware of widespread stigma in Scotland. We agree that Scotland is different in important respects, particularly around RME, but RO is precisely where Scotland now looks exposed.

Humanist Society Scotland's evidence, including testimonies gathered through our work on RO in non-denominational schools, indicates that RO in many schools remains exclusively Christian and worship-based. Led by clergy, involving prayer and the affirmation of religious belief as truth, rather than a neutral educational approach that encourages pupils to think for themselves.

We also have consistent evidence of the practical barriers that JR87 flags as legally relevant. Poor transparency about what will happen in assemblies, hostility when parents raise concerns, a lack of meaningful alternatives, and fear of stigma and exclusion where withdrawal is rare. As one parent put it to us:

“In my child’s school, all pupils regardless of faith are facilitated in singing songs affirming their belief in god and taken to church 3 times a year (with no notification to parents or opt out option unless the matter is actively pursued by the parents).

“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.”

In other words, Scottish schools are sleepwalking into legal cases because they are replicating the same human rights breaches identified in JR87. That is non-inclusive, proselytising practices combined with a burden-and-stigma withdrawal model. That legal vulnerability does not disappear simply because Scotland’s non-statutory guidance on RO alludes to an inclusive approach. It turns, as was detailed in the judgement, on what pupils and parents actually experience.

We have raised these implications directly with Scottish Government officials in the period since JR87. As you know, the ECHR requires states to take the utmost care to prevent information conveyed in schools from pursuing the aim of indoctrination. Our concern is that the Government’s approach, so far, has treated JR87 as a distant Northern Irish problem rather than a live warning for Scotland. Meanwhile, schools and local authorities remain exposed to legal challenges by parents and by 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.

An independent pupil's right to withdraw from RO is not the whole answer, but it is the urgent and immediate step that Parliament can still take at Stage 3 to reduce the risk of rights-breaches and align the Bill with the clear and specific recommendation of the UNCRC committee and recent interpretation of the ECHR by the UK Supreme Court. However, JR87 also demonstrates that Scotland will need to go further. At minimum, the Scottish Government should commit to:

- 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 RO activities must not ask pupils to recite prayers, sing religious songs, or in any way affirm their belief in God;
- support schools to provide transparent advance information for parents and pupils about the content and format of RO activities;

- provide meaningful alternative learning provision for pupils where withdrawal occurs; and
- initiate detailed monitoring and data collection so that human rights compliance in schools is no longer based on assumption.

These actions are necessary not only to avoid litigation, but to ensure that pupils in an increasingly diverse and non-religious Scotland are not subjected to religious indoctrination in publicly funded education. It is your duty as Education Secretary, required under the ECHR, to ensure that information conveyed in Scotland's schools is objective, critical, and pluralistic.

It is especially disappointing that the same Government which introduced and passed the landmark UNCRC Incorporation Act is now setting Scotland on a course where young people's only realistic route to vindicating their freedom of thought, conscience and religion in schools will be through the courts. We supported the Government on that Bill, and we took ministers at their word when they promised a "maximalist" approach to children's rights. Yet those commitments now ring hollow. Faced with the first serious test of that approach, the Government has chosen not to uphold children's rights, but to yield to pressure from religious institutions as they seek to protect their right to proselytise to Scotland's children in state schools.

I would be grateful if you could confirm, ahead of Stage 3, whether you will support an amendment to provide pupils with an independent right to withdraw from religious observance. If the Government will not, then I ask that you set out, clearly and publicly during Stage 3 proceedings, how you consider the Bill, as drafted, meets the requirements of JR87, the ECHR, and the UN Committee on the Rights of the Child's recommendations in relation to children's freedom of thought, conscience, and religion.

Yours sincerely,

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