



The Scottish Parliament
Pàrlamaid na h-Alba

PUBLIC PETITION NO.

PE01487

Name of petitioner

Mark Gordon and Secular Scotland

Petition title

Religious observance in schools

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to amend the Education (Scotland) Act 1980 by making Religious Observance (RO) in public schools an “Opt-In” activity rather than an “Opt-Out” one.

Action taken to resolve issues of concern before submitting the petition

The provision of Religious Observance (RO) in schools is a national issue, not a local or a personal one. I have complained to the school after my daughter was incorrectly sent to a church service. The school explained that this error arose because a temporary teacher was on duty; however, this merely emphasises that such errors are implicit in the present system.

I have consulted numerous school handbooks and discovered that they often do not even mention the right to opt out. This is a systematic; not an individual, failing.

I have researched the issue, and find that only 20% of parents say the school informed them of their opt-out rights. These are among the reasons why I am forced to conclude that the opt-out system is systematically defective, and since 'opt in' vs 'opt out' is specified by the Scottish Government, I feel it is a matter for the Scottish Parliament.

I have spoken to my MSP who has advised that this was a legitimate topic for petition.

Additionally, Secular Scotland with over 500 members is raising this issue on Facebook and Twitter with the support of the Humanist Society of Scotland and various figures within Scottish churches.

Petition background information

Statement Supporting Petition

Executive Summary

The present “opt-out” arrangement for Religious Observance (RO) is not fulfilling its purpose. RO is intended, according to the Religious Observance Review Group's (RORG) report (1) to “celebrate the shared values of the school community”.

In that same report, the RORG acknowledges that “in most non-denominational schools, there is a diversity of beliefs and practices”. Thus the current opt-out

arrangement, which presumes a substantial uniformity of belief and practice, is no longer appropriate. Moreover, only one parent in five is properly aware of their right to opt-out and situations frequently arise where by default a child takes part in religious activities of which the parents would strongly disapprove.

An arrangement whereby parents or senior learners opt in to RO, as sought in this petition, would avoid such distressing situations, ensure the integrity of participation in RO, and should be welcomed by believers and non-believers alike. There is also a possibility that the present situation could expose local authorities to legal challenges at ECHR, along the lines of *Folgerø et al. v Norway* (2).

Preamble

The Education (Scotland) 1980 Act (3) along with guidance “circulars” (4) continues to impose a statutory duty on local authorities to provide Religious Observance (RO) and Religious and Moral Education (RME) in Scottish public schools. This petition, however, is concerned only with RO.

Religious Observance was defined by the Religious Observance Review Group in 2004 as “community acts which aim to promote the spiritual development of all members of the school’s community and express and celebrate the shared values of the school community.” In principle, the promotion and celebration of community spirituality and shared values is admirable and at first glance easy to agree with. In practice, however, it is rather different.

Problems in Practice

It is clearly very difficult to truly espouse shared values and spirituality when the event (typically an assembly) includes a minister of one particular faith and children of a different faith, or indeed of no-faith, may be present.

Whilst all schools have an obligation to inform parents that removing their child from RO is a right, this is often not done or is only mentioned briefly in the school handbook. A 2012 poll (5) conducted by YouGov found that of 1000 parents surveyed most were not being adequately made aware of their right to withdraw. Four out five parents were either ignorant of their rights or originally found out through a source other than school. Worryingly, 39% of parents were not aware of their rights at all.

A few parents do remove their children from RO. Most however do not because they are unaware of their rights, they feel that this would be “rocking the boat”, or because they fear that their child will be singled out.

The law does mandate that “In no circumstances should a child be disadvantaged as a result of withdrawing from religious observance” and should be given a “suitable worthwhile alternative activity.” In my experience and that of many other parents – this is most certainly not the case. My daughter is made to sit in the school office with paper and pencils to draw with and is “looked after” by the school secretary since there are usually no teaching staff available.

Before Easter, because the head teacher and my child's class teacher were not present, the stand-in took her to a church service expressly against my written instructions. Upon complaining, I received a profuse apology for the assumption that the stand-in teacher had made.

The current situation provides little basis for parental understanding of the detailed content of RO and provides little or no checks and balances upon such content. Parents want to make positive contributions to their child's upbringing and being adequately informed is the first step.

Changing Demographic

Scotland's demographic has rapidly changed over the recent years. There are many data sources on the religious make-up of the population and whilst I would like to present the most recent census data, this is not yet available. However, according to Professor Callum Brown of the University of Dundee, author of the standard monograph on the social history of modern Scottish religion, when religious profession in Scotland in 2008 is compared with 2001, the position declined significantly between the two dates (6). In these seven years, Brown reports that, affiliation to Christianity

in Scotland dropped from 65% to 57%, principally as the result of falling allegiance to the Church of Scotland (down from 42% to 35%). These numbers reflect the poll respondents' answers to questions of affiliation. Active participation is known to be far lower. Examination of many other surveys over the last few years bears out these findings remarkably well.

I mention specifically the Church of Scotland because it is typically they who are afforded privileged access to children in a substantial proportion of public schools in Scotland. What this means effectively is that the law currently mandates that all pupils in Scotland who do not currently opt-out of RO are worshipping under the aegis of a church whose tenets are followed by only 1/3 of the population and even that proportion is in decline. Are we to assume that in future years, Scottish children will have a religious viewpoint imposed upon them that is representative of a tiny minority of the population?

Standards and Quality in Secondary Schools: Religious and Moral Education

1995-2000 (7) was an HMIE report which significantly found, inter alia, that 2/3 of secondary schools were failing to fully comply with the advice contained in the guidance circulars. The Religious Observance Review Group (RORG) was then formed to review the situation.

In the February 2005 Guidance Circular (8), the Scottish Executive endorsed the RORG's findings in the following terms:-

“Where the school, whether denominational or non-denominational, is continuous with a faith community, that community's faith in the 'focus of worship', may be assumed and worship may be considered to be appropriate as part of the formal activity of the school. Where, as in most non-denominational schools, there is a diversity of beliefs and practices, the review group believed that the appropriate context for an organised act of worship is within the informal curriculum as part of the range of activities offered for example by religions, groups, chaplains and other religious leaders.”

This is a rather startling statement that brings the current position into sharp focus. Given the demographic described above, schools in Scotland cannot now be reasonably said to be continuous with faith communities since no significant faith community exists. All the more startling that the word “assumed” rears its head. Since schools are no longer continuous with faith communities, the current basis for RO provision needs to be urgently reformed.

The Current Solution – An Impractical Remedy

Even with the statutory right of withdrawal in place, the overturning of this situation is, for the individual, particularly onerous. Section 8(2) of the Education (Scotland) Act 1980, provides for a solution. This however is not fair, low-cost and easily accessible.

It is virtually impossible for parents to challenge the provision of RO in any given school. To discontinue RO and overturn the deeply divisive and intrinsically unfair default position of churches, religions and their message being given privileged access to their child, would require an individual to lobby the local authority to conduct a poll of all eligible electors. One would then need to communicate effectively with a sufficient portion of the electorate to secure a majority against a backdrop of general elector apathy and ignorance, an already well mobilised, informed and canny religious section of the electorate and the high cost of communicating the message. It is therefore unsurprising that no-one has until recently taken up this option.

Other Precedent and Previous Petitions

Petition number PE993 (9) was an October 2006 petition by David Walker, an individual, that called for the removal of the requirement for Education Authorities to provide RO in Scottish schools.

The public petitions committee first examined the issue on 4 October 2006 (10), and agreed to seek views on the petition from interested parties and then to seek the petitioner's comment.

The committee met again on 20th March 2007 (11) and the petition was summarily dismissed with 2 short statements. The first referred to unspecified briefing papers

which, it was claimed, made it clear that the consensus of advice was that RO in schools should be retained. In response to my request the Scottish Parliament's support team was unable to trace these papers.

The second and final short statement before dismissal is rather more incredible. The member stated: *“Religious observation is important in young and old alike. I am not concerned that taxpayers' money is being used to promote Christian values; in fact, I am glad about that, because they are vital at this time.”* This despite the clear evidence that a consensus to promote specifically Christian values no longer exists. It can only be hoped that the current committee is rather more impartial in its approach.

Folgerø and Others v. Norway (2) was a 2007 case at the European Court of Human Rights where parents challenged Norway's implementation of RO and RME. The school curriculum had recently been changed from one with separate subjects (where parents could withdraw their children according to their rights) to one which combined RO and RME into a single subject which was predominantly Lutheran Christian.

The parents argued that whilst their right to opt-out was still in place, exercising that right was impractical and that the new arrangement did not realistically guarantee that the children would not suffer as a result. This was because they could not reasonably be expected to remove their child from each instance where Christianity was discussed as it was now mixed into the curriculum.

The Court agreed, stating that the system was capable of subjecting the parents to a risk of undue exposure of their private life and that the potential for conflict was likely to deter them from making such requests for removal. It further recalled that the convention was designed to “guarantee not rights that are theoretical or illusory but rights that are practical and effective”.

The Norwegian case is therefore directly analogous to this one. It is clear, from personal experience, that the law as it stands cannot practically and effectively guarantee the rights of children and parents who opt out. The law currently provides only a remedy that is theoretical and illusory.

Ms Veronica Wikman, a resident of Edinburgh City Council (ECC), recently raised an online petition (12) calling for a poll to debate removal of RO altogether. A few weeks into her campaign, the problems mentioned previously were evident. The religious mobilised numbers – in a counter petition - well in excess of Ms Wikman's. There is a distinct imbalance between her resources and that of the organised religious element who clearly want to see the continuation of their influence in our schools.

Not all councils even have an online petitions process open at present, as is the case in my own local authority,

Inverclyde Council. Here there is even less chance of success as one would have to write privately in the first instance. Rightly, local councils will view the issue with eyes firmly on the cost of arranging a poll for all eligible electors and are likely to conclude, wrongly in the author's opinion, that the status quo is acceptable. There also exists the possibility that provision of RO will vary from authority to authority increasing the likelihood of parental confusion.

A Better Solution in Practice.

It seems to me that a far more sensible, and fairer approach could be to turn the situation around so that the default position was “opted-out.” Parents would then be asked by individual schools whether they wanted their child to attend a particular service, have a minister visit to conduct a service or where material specific to (and promoting of) faith would arise. This is consistent with the duty of care that schools should rightly exercise.

Changing the system from opt-out to opt-in would place the onus upon each school to actively seek parents permission for each event. At the same time it must be explained for what exactly permission is being sought. This will ultimately result in parents who are more informed, improving the relationship between parents, schools and the teachers who serve them. Given that schools now regularly communicate with parents

via email, newsletter, annual data-checks etc., this is a relatively simple task and not in any way onerous. It will also make RO itself a more meaningful activity, since participation will be a conscious choice, freed from the taint of compulsion or hypocrisy.

The data shows that this country can no longer be reasonably considered a Christian country and to continue to do so flies in the face of Scotland's position as a leading proponent of equality and diversity. Privileged default access by churches to a nation's children without a parent's express permission is deeply unfair and illogical and may represent strong potential for legal challenge either nationally or in Europe at the ECHR. This petition seeks to avoid that not by removing RO but by changing the terms under which it is delivered.

Unique web address

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/religiousobservance>

Related information for petition

References

1. <http://www.edlaw.org.uk/wp-content/uploads/pdfs/guidance/relobs.pdf>
2. <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-81356>
3. <http://www.legislation.gov.uk/ukpga/1980/44>
4. http://www.educationscotland.gov.uk/Images/roletter_tcm4-650445.pdf 22nd February 2011
5. <http://www.humanism-scotland.org.uk/content/resources/RO--RME-in-Scottish-schools-YouGov-Report.pdf>
6. <http://www.scotsman.com/news/letter-declining-faith-1-1523942>
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9. <http://archive.scottish.parliament.uk/business/petitions/docs/PE993.htm>
10. <http://archive.scottish.parliament.uk/business/committees/petitions/or-06/pu06-1602.htm#Col2798>
11. <http://archive.scottish.parliament.uk/business/committees/petitions/or-07/pu07-0402.htm#Col3125>
12. http://www.edinburgh.gov.uk/directory_record/219097/remove_religious_observance_from_r-denominational_schools

Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

YES

How many signatures have you collected so far?

20

Closing date for collecting signatures online

19 / 06 / 2013

Comments to stimulate online discussion

- Are you aware of your **legal right** to opt your child out of Religious Observance?
- Are you aware that less than 40% of parents know of this **legal right**?
- Are you aware that only around 20% are properly informed by the school of this **legal right**?
- Are you aware that this **legal right** is enshrined in the Education (Scotland) Act 1980 which states that parents must be given sufficient information upon which to base a decision?
- Are you aware that most parents don't even get that chance because new legislation from 2012 oddly leaves this information out of the list of items that are mandatory for inclusion in school handbooks?
- Are you aware that children are, in some cases on a daily basis, forced to attend religious services because it is assumed their parents agree?
- Do you think it is right that when most Scots have no religious affiliation at all, the state still imposes Christian prayer upon them unless you opt out?
- Do you think it is right, if you are a non-Christian believer, that your child is forced to endure Christian religious observance unless you opt out?
- Do you think it is right that your child could be disadvantaged or considered different if you do exercise your legally protected right to opt out?
- Do you think it is right that your non-belief or disagreement with the State's preferred religion is made public and your right to privacy breached?
- Or do you keep quiet because the system currently encourages you not to "rock the boat" or upset a great teacher-parent relationship?
- Do you think that a system of religious observance where parents opt in and positively choose religious observance of a nature you desire will be fairer and more rewarding for all?