



Submission to the Human Society Scotland for input into the Scottish Government consultation on Religious Observance (RO) guidance

Deadline: Friday 24th February 2017

Proposed revisions of relevance:

3. Importance of schools communicating effectively about their Religious Observance plans.
4. Clarity about the relevance of young people's own views in any discussions about withdrawal from Religious Observance.

Key points from Together:

Whilst welcoming the Scottish Government's proposal to revise the guidance on religious observance, Together is clear this initial consultation does not fully implement the UN Committee's Concluding Observation and can only be seen as a first step in taking the recommendation forward.

Together supports the full implementation of the UN Committee on the Rights of the Child's 2016 Concluding Observation that:

*"the State party repeal legal provisions for compulsory attendance at collective worship in publicly funded schools and ensure that children can independently exercise the right to withdraw from religious worship at school."*¹

In this initial revision of the guidance, Scottish Government can give further effect to its UNCRC obligations to children and young people as follows:

Article 5 of the UNCRC²: Article 5 of the Convention states that direction and guidance, provided by parents or others with responsibility for the child, must take into account the capacities of the child to exercise rights on his or her own behalf. The article recognises children's "evolving capacities", stressing that parental guidance should be conditioned upon this evolving capacity. In other words, as children mature, they should be allowed greater freedom of choice and respect for their ability to fully exercise their rights, including decisions to withdraw from Religious Observance. More can be done to create an environment within Scottish schools that affords children and young people greater respect for their potential for participation in and responsibility for decision-making in their own lives, consistent with their evolving capacities and mirroring Article 12³.

Article 12 of the UNCRC: The connection of Article 12 to Article 5 is of special relevance⁴, since Article 12 stipulates that the child's views must be given due weight, whenever the child is capable of forming her or his own views. In other words, as children acquire capacities, so they are entitled to

¹ CRC/C/GBR/CO/5: Para: 36.

² UNCRC, Article 5 (evolving capacities of the child)

³ UNCRC, Article 12 (right to be heard)

⁴ General Comment No. 12, CRC/C/GC/12

an increasing level of responsibility for the regulation of matters affecting them. In not giving children the right to withdraw themselves from Religious Observance, in accordance with their age and capacity, the guidance does not adequately respect the rights of children to have their views heard and taken account of in decisions affecting them. It may also infringe on the standards imposed by Standards in Scotland's Schools etc. Act 2000⁵, in that due regard is not given to the views of the child in a decision that could be seen to significantly affect that child⁶.

Article 12 also sets out standards of participation for including children and young people in decision-making processes. In revising the guidance on Religious Observance in schools, Scottish Government should put in place a clear and systematic strategy to ascertain the views of children and young people. Children's views and experiences must be taken into account in the development of the revised guidance in relation to both the communication of Religious Observance plans within schools as well as the statutory right to withdraw from Religious Observance currently only afforded to parents/carers.

Children and Young People (Scotland) Act 2014: Under Part 1 duties of the 2014 Act⁷, Scottish Ministers are required to give due consideration to ways in which the UNCRC can be better implemented in Scotland and to take account of the views of children and young people. Scottish Government should conduct a Child Rights and Wellbeing Impact Assessment on the revision of the guidance relating to Religious Observance to assess and evidence its full compliance with the UNCRC and other human rights treaties. Particular attention should be given to taking into account children's 'evolving capacities' and their right to have their views heard, in line with UNCRC Articles 5 and 12⁸.

Liz Millership

Policy and Communications Officer

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⁵ Standards in Scotland's Schools etc. Act 2000. <http://www.legislation.gov.uk/asp/2000/6/contents> [Date accessed: 15.02.17].

⁶ Standards in Scotland's Schools etc. Act 2000 Section 2(2).
<http://www.legislation.gov.uk/asp/2000/6/section/2> [Date accessed: 15.02.17].

⁷ Children and Young People (Scotland) Act 2014, Part 1.
<http://www.legislation.gov.uk/asp/2014/8/part/1/enacted> [Date accessed: 15.02.17].

⁸ Together, 2016. State of Children's Rights report, see recommendation on p 45,
<http://www.togetherscotland.org.uk/pdfs/TogetherReport2016.pdf> [Date accessed: 15.02.17].