



ABOUT WALES HUMANISTS

Wales Humanists is a part of Humanists UK. We want a tolerant world where rational thinking and kindness prevail. We work to support lasting change for a better society, championing ideas for the one life we have. Our work helps people be happier and more fulfilled, and by bringing non-religious people together we help them develop their own views and an understanding of the world around them. Founded in 1896, Humanists UK is trusted to promote humanism by over 85,000 members and supporters and over 100 members of the All Party Parliamentary Humanist Group. Through our ceremonies, pastoral support, education services, and campaigning work, we advance free thinking and freedom of choice so everyone can live in a fair and equal society.

We have a long history of work in education, children's rights, and equality, with expertise in the 'religion or belief' strand. We have been involved in policy development around the school and the curriculum for over 60 years. We also provide materials and advice to parents, governors, students, teachers and academics, for example through our Understanding Humanism website (<https://understandinghumanism.org.uk/>) and our school speakers programme. We have made detailed responses to all recent reviews of the school curriculum in Wales (and the rest of the UK), and submit memoranda of evidence to MPs, civil servants and parliamentary select committees on a range of education issues.

We are an active member of many organisations working in education in the UK, including the Religious Education Council for England and Wales (REC), of which we are a founding member, and our Chief Executive is the Treasurer; the Welsh Association of Standing Advisory Councils on RE (WASACRE), of which our Wales Coordinator is an executive committee member; and, in England, the Sex Education Forum (which for many recent years our Education Campaigns Manager was on the steering group of), the PSHE Association, and the Children's Rights Alliance for England (CRAE). We have been on all Welsh and UK government steering groups that have reviewed RE in recent years.

Our primary interests in children's rights relate to issues surrounding education (in particular RE, PSE/RSE, citizenship, and science), collective worship/school assemblies, state-funded religious schools, and the removal of the defence of 'reasonable punishment' in cases of physical assault against children.

RESPONSE TO CONSULTATION

Rights of Children and Young Persons (Wales) Measure 2011

Summary

In our view, the Rights of Children and Young Persons Measure 2011 has been reasonably successful (albeit primarily through developments that have happened during the last two years) in facilitating the Welsh Government to begin implementing policies that demonstrate respect for and promote knowledge and understanding of the United Nations Convention on the Rights of the Child (UNCRC) in schools and education. We strongly welcome the fact that the UNCRC is fully embedded into the new curriculum for Wales and that it directly motivates one of that curriculum's four key



purposes, namely, to create 'ethically informed citizens of Wales and the World'.¹ In addition, we have heard from those working on the ground that the training offered to schools by the Children's Commissioner's Office and Local Authority youth forums has been of a high standard and, along with the availability of UNCRC materials in all schools, has meant that many more children are now aware of their rights and school staff are better able to support them than was previously the case.

We nevertheless think that, to fully consolidate these changes, the UNCRC itself ought to be incorporated directly into Welsh law. This would send a clear message that Wales is committed to children's rights and make the Convention directly enforceable rather than, as is currently the case under the 2011 Measure, something which retains an optional status as long as the Government pays it 'due regard' during the policy-making process.

We note that the duties arising from the Measure have not been fully embedded across the activities of the Welsh Government or, as explained in more detail below, at Local Authority level. This is most clearly demonstrated by the number of policy areas remaining which do not as yet fully support children's rights and is particularly evident in the area of freedom of religion or belief – which is undermined by, amongst other things, the continuing existence of compulsory collective worship and faith-based selection policies – and the fact that the defence of 'reasonable punishment' has not yet been abolished. We are also disappointed to note that NHS Wales still does not recognise the need for wider spiritual care for children with beliefs that fall outside of those covered by traditional chaplaincy teams, with an annual spend of £1.2m across NHS Wales on Christian chaplaincy which does not cater effectively for those of other faiths and beliefs.

Supporting freedom of religion or belief

As already noted, one of the key areas in which the 2011 measure has failed to make sufficient progress is with respect to facilitating the rights that children and young people have to freedom of religion or belief as outlined in Article 14 of the Convention.² These include the policy mandating collective worship in all state-funded schools, as well as the legal provisions relating to faith schools, which are not only permitted to impose a particular religious worldview on pupils but may legally make use of discriminatory religiously selective admissions policies that prevent children who do not share the faith of the school from being able to secure a place. In what follows, we provide a brief outline of the primary barriers to the realisation of the relevant rights in current law and policy in Wales and suggest how this situation should be ameliorated.

Collective worship

The first policy area that both contradicts the new legislation and fails to uphold the UNCRC requirement for freedom of belief that must, therefore, be reviewed with some urgency is collective worship. The Welsh Government has failed to respond to the recommendations of the Concluding Observations of the UN Committee on the Rights of the Child (2016) which stated that the Government should '**repeal legal provisions for compulsory attendance at collective worship**

¹ *A Guide to the Curriculum for Wales 2022* (April 2019)

<<https://hwb.gov.wales/draft-curriculum-for-wales-2022/a-guide-to-curriculum-for-wales-2022/#the-four-purposes-of-the-curriculum>> [accessed 19 September 2019]

² *Convention on the Rights of the Child* (1989) <<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>> [accessed 19 September 2019]



in publicly funded schools and ensure that children can independently exercise the right to withdraw from religious worship at school'.³

By requiring a daily religious worship that is 'wholly or mainly... Christian' in all state-funded schools, the law effectively imposes a particular faith perspective on all children irrespective of background. The fact that parents may exercise a legal right to withdraw their children from such worship is not sufficient to address the threat this poses to freedom of religion or belief for a number of reasons. First, because many parents are unaware that this right to withdraw exists they are not in a position to exercise it; second because, even when parents attempt to make use of this right, in practice schools do not always honour the request or make it deliberately difficult for the child to be withdrawn; finally – and most importantly – since, at least until the child or young person reaches the age of 16, pupils are unable to withdraw themselves from worship, their own rights to freedom of religion or belief are treated as identical to that of their parents when this patently isn't the case. What's more, there is currently no requirement written in to Welsh law for schools to provide pupils who have been withdrawn with a meaningful educational alternative to collective worship, so even those who successfully exercise this right are often left isolated in empty classrooms or corridors with little more to do than play on an iPad or read silently until their peers return. This is clearly discriminatory and should be addressed immediately.

The need for a right to withdraw demonstrates that collective worship represents a direct negation of inclusivity. Assemblies where members of the school community come together to learn about one another's beliefs and values, celebrate achievement, and appreciate the diversity of the world around them are a vitally important part of the school day. Since assemblies and worship are often conflated, when children are withdrawn from the latter, they are likely to miss out on the former. Indeed, we are often contacted by parents who, having withdrawn their children from worship, are deeply unhappy that they have been forced to take steps which will also mean that their children are being denied this fundamental part of their education simply because they are not Christian and unable to participate.

The continuation of statutory Christian worship contradicts much of the rationale for the new curriculum, particularly the requirement to ensure that children and young people develop into ethical citizens of Wales and the world. Given that, in other respects, this is likely to be the most inclusive curriculum in the UK, this undermines its purpose and risks diminishing the impact of the important changes this innovative curriculum seeks to make. Here it is worth noting that, despite its relevance to the substance of what is taught in Welsh schools, and the fact that, for pupils, worship is likely to be experienced as a kind of lesson which impacts on spiritual, moral, social, and cultural development, collective worship has been entirely excluded from the consultation on curriculum reforms.

For these reasons, we strongly believe that the UNCRC can only properly be considered to have taken effect once collective worship has been abolished. We therefore urge the Welsh Government to remove the requirement for collective worship in all Welsh schools and replace it with fully

³ UN Convention on the Rights of the Child, Committee on the Rights of the Child *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland* (July 2016)
<<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=60kG1d%2FPPRiCAqhKb7yhskH0j6VpDS%2F%2FJag2Jxb9gncnUyUgbnuttBwe0lylyfYpKbBwffitW2JurgBRuMMxZqnGgerUdpjxij3uZ0bjQBOLNTNv09fUIEOvA5Ltw0GL>>



inclusive assemblies, which do not discriminate and demonstrate respect for children and families from all religion and belief backgrounds.

Faith schools

As noted above, the law in Wales permits schools with a religious character to provide religious instruction and collective worship in line with a particular faith and allows such schools to select pupils (and teachers) on religious grounds.

In our view, both this form of 'confessional' instruction and worship as well as religiously selective admissions policies fly in the face of the requirements of the UNCRC; the former – as is also the case with respect to collective worship in schools without a faith character – by ignoring the freedom of belief of children, treating those rights as identical with those of their parents, and failing to allow those with sufficient maturity to opt out of 'confessional' religious activities, and the latter by permitting discrimination 'on the basis of the... expressed opinions, or beliefs of the child's parents, legal guardians, or family members'. Which appears to run counter to Articles 1 and 2 of the Convention with respect to the 'right of the child to education' guaranteed by Article 28.⁴

To improve this situation, policy makers must, at the very least, consider permitting young people who are capable of making decisions about the education they wish to receive on religious matters – that is, those who are deemed 'Gillick competent'⁵ – to withdraw from this type of activity even when they attend faith schools and seek to abolish religiously selective admissions to ensure that all state-funded schools are diverse, inclusive, and open to all irrespective of background.

Religious education

The inclusion of religious and non-religious worldviews equally in the new curriculum is a hugely positive step which brings Wales fully into line with the Human Rights Act 1998 and the UNCRC with respect to freedom of religion or belief.

But, while progress has been made at a national level, these developments have not always become apparent at the local level. Local Authorities have themselves been slow to recognise the need for change in areas of equality that help to support children's rights. This can be seen, for example, in cases where LAs have refused to grant humanist representatives full membership of standing advisory councils on Religious Education (SACREs) and Agreed Syllabus Conferences (ASCs), therefore depriving children – particularly those from non-religious backgrounds – of adequately inclusive provision. This change is now gradually taking place thanks in part to support from the Education Minister who, in 2018, directed Local Authorities to ensure that SACREs and ASCs treat those with non-religious beliefs equally to those with religious beliefs. The Government is now also proposing to change the wording of the law so that it adequately reflects this position. However, despite this guidance and these proposals, some LAs are yet to take steps to improve the situation and appoint a humanist member to these bodies.

In accordance with the recommendations of the final report of the Commission on RE, which outlined a groundbreaking vision for the future of the subject in England, we also believe that 'there

⁴Convention on the Rights of the Child (1989) <<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>> [accessed 19 September 2019]

⁵See *Gillick v West Norfolk and Wisbech AHA* [1985] UKHL 7 (17 October 1985) <<http://www.bailii.org/uk/cases/UKHL/1985/7.html>> [accessed 19 September 2019]



should be a national entitlement statement for RE which sets out clearly the aims and purpose of RE and what pupils should experience in the course of their study of the subject.' It 'should apply to all state-funded schools, including schools of a religious character' in Wales. There should also be a repeal of the law relating to agreed syllabuses, with schools free to determine their own syllabus within the confines of the entitlement. We think this is necessary to ensure that every child in Wales receives a comparably inclusive education in religion and worldviews rather than this being dictated by where they happen to live in the country.⁶

Non-religious pastoral support in hospitals

The absence of non-religious pastoral care to support children and young people in hospitals further highlights a lack of commitment to freedom of religion or belief across all aspects of public life in Wales. There is evidence supporting the need for non-religious pastoral support in healthcare and in educational establishments.⁷ However, at present this support only exists for religious groups within NHS Wales and this provision needs to be reviewed.

Compulsory relationships and sex education in the new Curriculum for Wales

The introduction of compulsory relationships and sex education (RSE) for all children aged five to sixteen in 2022 will have a hugely positive impact on the rights and interests of all young people, and particularly for those with a range of protected characteristics, including LGBT pupils, women and girls, and people with disabilities. All the best evidence⁸ shows that teaching about different types of relationship, including sexual relationships, as well as about consent, sexual health, and the advantages of delaying sex, ensures that young people grow up healthier, happier, and more able to keep themselves, and those around them, safe. RSE also plays a very important safeguarding role which brings it into line with Article 19 of the UNCRC which requires that 'States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child'.⁹ For this reason, we think there should be no right for parents to withdraw their children from this vital, fact-based aspect of their education.

We agree with the Government's view that the 'existing legislation around sex and relationships education in Wales is outdated and not fit for the current world in which children and young people exist'.¹⁰ For this reason, it is essential that the legislation is updated to ensure that these children and young people receive a statutory, standardised curriculum which is both inclusive and developmentally appropriate. It is true that the introduction of such a curriculum will require a high

⁶ Commission on Religious Education, *Religion and Worldviews: the way forward. A national plan for RE* (2018) <<https://www.commissiononre.org.uk/final-report-religion-and-worldviews-the-way-forward-a-national-plan-for-re/>> [accessed 19 September 2019]

⁷ See report from Marie Curie on the need for non-religious pastoral support in healthcare <<https://humanism.org.uk/2018/09/20/new-research-highlights-the-need-for-more-non-religious-pastoral-support-in-healthcare/>> [accessed 19 September 2019]

⁸ Sex Education Forum, *SRE: The Evidence* (2015) <<https://www.sexeducationforum.org.uk/sites/default/files/field/attachment/SRE%20-%20the%20evidence%20-%20MARCH%202015.pdf>> [accessed 19 September 2019]

⁹ Convention on the Rights of the Child (1989) <<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>> [accessed 19 September 2019]

¹⁰ *The Future of the Sex and Relationships Education Curriculum in Wales: Recommendations of the Sex and Relationships Education Expert Panel* (2017) <<https://gov.wales/sites/default/files/publications/2018-03/the-future-of-the-sex-and-relationships-education-curriculum-in-wales.pdf>> [accessed 19 September 2019]



degree of commitment from teachers and school leaders. However, the risks of not providing this curriculum, particularly to marginalised groups (e.g. LGBTQ people or women and girls) as well as members of insular religious communities where issues (perceived to be) related to sex are treated as taboo, far outweigh the costs of making these changes.

As is evident from the various controversies arising from the introduction of statutory RSE in England,¹¹ it is possible that some groups in Wales will attempt to stymie the introduction of the new RSE curriculum (or any proposal to remove or amend the parental right to withdraw) on religious grounds. This kind of resistance could threaten the potential of the subject to have the necessary impact on the aforementioned rights of children and young people. For this reason, the requirements of the UNCRC, including freedom of religion or belief, and protected characteristics like sex, sexual orientation, and gender identity must be kept front and centre when making policy decisions on the matter. Religious groups of all kinds include individuals with the full range of protected characteristics, and of course young people frequently decide during the course of their education that they hold a different religion or belief from their parents. It remains to be seen whether the Welsh Government will adequately take this into account when deciding what pupils should learn and whether to ensure that all children, irrespective of background, are given the opportunity to receive factually accurate, non-judgemental RSE as part of their broader education. We very much hope that they do so.

Removal of the defence of reasonable punishment

We welcome the proposed bill to withdraw the defence of 'reasonable punishment' in cases relating to the physical assault of children and young people. Just as adults have legal protection from assault, children have the same right to be protected from violence and the removal of this as a defence will ensure that right is recognised in Welsh law. There is no justification why children, who are by their nature more vulnerable to assault than adults, should have less protection under law.

Article 19 of the UNCRC recognises that any physical punishment of children, however minor, is incompatible with the human rights of children, and the UN Committee on the Rights of the Child has called for it to be abolished.¹² It recognises the right of the child to respect of their human dignity, physical integrity and equal protection under the law. For this reason, until the new bill is implemented the fundamental rights of children under the Convention will not be adequately respected.

For more details, information and evidence, contact Humanists UK:

¹¹ See, for instance, this petition that was discussed in a recent Westminster Hall debate: <<https://petition.parliament.uk/petitions/235053>> [accessed 19 September 2019]

¹² See, for example this statement from 2013: <<https://www.ohchr.org/EN/NewsEvents/Pages/CorporalPunishment.aspx>> [accessed 19 September 2019]

