



**Proposals to Amend the Legislation on Religious Observance and
Religious Education in Schools to Support Alignment with the
United Nations Convention on the Rights of the Child**

**Response from the Jewish Council of Scotland
(formerly the Scottish Council of Jewish Communities)**

Background information

The Jewish Council of Scotland (formerly the Scottish Council of Jewish Communities (SCoJeC)) is the representative body of all the Jewish communities in Scotland. The Council advances public understanding about the Jewish religion, culture and community, by providing information and assistance to educational, health, and welfare organisations, representing the Jewish community in Scotland to Government and other statutory and official bodies, and liaising with Ministers, MSPs, Churches, Trades Unions, and others on matters affecting the Jewish community. The Council also provides a support network for the smaller communities and for individuals and families who live outwith any Jewish community or are not connected with any Jewish communities, and assists organisations within the Scottish Jewish community to comply with various regulatory requirements. The Council also promotes dialogue and understanding between the Jewish community and other communities in Scotland, and works in partnership with other organisations and stakeholders to promote equality, good relations, and understanding among community groups.

There is only one Jewish denominational school in Scotland, Calderwood Lodge Primary School in East Renfrewshire, which shares a joint campus with the Roman Catholic St Clare's Primary School.

In preparing this response we have consulted widely among organisations and individuals in the Scottish Jewish Community with relevant expertise, and this response also reflects the views of all branches of Judaism that have communities in Scotland.

1. What are your views on the proposed changes, including in terms of practicality for schools and ease of implementation?

Terminology: Religious Observance / Religious and Moral Education

Although the title of this consultation refers to "Religious Observance and Religious Education", the detail of the consultation paper relates only to religious observance, and where reference is made to "RME" (Religious and Moral Education), it is undifferentiated from religious observance using the shorthand "RO/RME". Furthermore, while the consultation paper references the Scottish Government Guidance on "Curriculum for

Excellence: religious observance”¹, it is entirely silent about the existence of the Scottish Government Guidance on “Curriculum for Excellence: religious and moral education”².

Section 9 of the Education (Scotland) Act 1980³ refers to “instruction in religious subjects” and “religious observance”.

The 2023 Concluding Observations of the UN Committee on the Rights of the Child⁴ refer to “collective worship” and “religious classes”.

There are, therefore, three matters at issue:

- religious observance
- religious instruction
- religious education

Religious Observance relates to activities that presuppose belonging to a particular faith or religious tradition, and may include amongst other things, collective and individual worship, the recital of grace before and after meals, ceremonies and other activities relating to religious festivals and other days of note, adherence to religious dietary laws, and the wearing of particular clothing.

However, Scottish Government guidance reinterprets Religious Observance in a way that disregards its normal meaning, 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*”⁵. This is not a matter of chance: the definition was adopted precisely in order to circumvent the statutory requirement for genuine religious observance without the need to amend primary legislation. The problem, as with all creative reinterpretations, is that the words are then left ambiguous between the original literal meaning and the Scottish Government definition. So Religious Observance as redefined according to the deliberately nebulous definition, might be an acceptable all-school activity in the eyes of most parents and pupils, but genuine religious observance – faith-specific worship, dietary rules, and dress code, for example – is specific only to adherents of the relevant faith.

That said, it is not acceptable to compel anyone to participate in other faiths’ observance, and pupils and parents from different faith communities must not be pressurised to participate in faith-specific worship that is not their own.

Religious Instruction denotes explicit teaching of how to observe a particular religion or denomination.

Religious [and Moral] Education differs from either of the above in that it concerns teaching *about* religions, beliefs, and other world views. It is not about instructing pupils on how to

¹ Curriculum for Excellence: religious observance (Scottish Government, March 2017)
<https://www.gov.scot/publications/curriculum-for-excellence-religious-observance/>

² Curriculum for Excellence: religious and moral education (Scottish Government, February 2011)
<https://www.gov.scot/publications/curriculum-for-excellence-religious-and-moral-education/>

³ Section 9, Education (Scotland) Act 1980
<https://www.legislation.gov.uk/ukpga/1980/44/section/9>

⁴ Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland (UN Committee on the Rights of the Child, June 2023)
<https://undocs.org/en/CRC/C/GBR/CO/6-7>

⁵ Curriculum for Excellence: religious observance – Section 5 (Scottish Government, March 2017)
<https://www.gov.scot/publications/curriculum-for-excellence-religious-observance/>

observe a particular religion, or mandating its observances, but informing pupils about different religions and belief systems, and about the beliefs, ethics, theology, and practices of people who identify themselves with each religion or belief system. In our view, there is no more reason why pupils should not learn about different worldviews, than different geographies, histories, and global issues.

Therefore, in terms of practicality for schools, parents, and pupils, we urge that the proposed amendment should be worded so as to clarify and not further confuse what is under discussion. We regret that the proposed wording has not been included in the consultation paper.

The Proposed Amendment

The initial sections of the consultation paper refer to “*alignment of legislation with the United Nations Convention on the Rights of the Child*” and “*requiring that children and young people’s views are taken into account in relation to their participation in religious observance and religious and moral education*”. This accords with the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024⁶, and the 2023 United Nations “Concluding observations on the combined sixth and seventh reports of the United Kingdom of Great Britain and Northern Ireland”⁷, which recommends: “*Repealing legal provisions for compulsory attendance in collective worship and establishing statutory guidance to ensure the right of all children, including children under 16 years of age, to withdraw from religious classes without parental consent*”.

In detailing the proposed amendments, however, section 7 of the consultation paper states that “*The Scottish Government proposes to amend section 9 of the 1980 Act to require due weight to be given to the pupil’s views when parents are exercising their right to withdraw their child from RO/RME*”.

This implies that schools will only be required to give due weight to pupils’ views **after** parents’ have already submitted a withdrawal request. i.e. that pupils will be able to indicate a preference to remain opted in to Religious Observance and/or Religious and Moral Education, but will not themselves be able to initiate a withdrawal request.

As we have already stated, we regret that the proposed wording of the amendment has not been included in the consultation paper in order to make the Scottish Government’s intentions absolutely clear.

In absence of that information, it is difficult to comment unequivocally on the proposed changes, and the practicality and ease of implementation in schools. We are, however, in favour of the continuation of a right to withdraw from Religious Observance, and Religious and Moral Education, and believe that the views of both parents and pupils should be taken into account.

Practicalities of implementation

While, as we have already said, it is difficult to comment about implementation without clarity on what is being proposed, we would point out that withdrawal from all Religious Observance,

⁶ United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024
<https://www.legislation.gov.uk/asp/2024/1/contents>

⁷ Concluding observations on the combined sixth and seventh reports of the United Kingdom of Great Britain and Northern Ireland (United Nations, June 2023)
<https://documents.un.org/doc/undoc/gen/g23/112/77/pdf/g2311277.pdf>

and Religious and Moral Education in schools with a religious character, such as the Jewish denominational Calderwood Lodge Primary School in East Renfrewshire, is very difficult since Jewish-related activities permeate the whole school day, and are woven into most areas of the curriculum. This has been recognised in the Scottish Government Guidance “Curriculum for Excellence: religious observance”, which states: *“Where a parent chooses a denominational school for their child’s education, they choose to opt in to the school’s ethos and practice which is imbued with religious faith and religious observance. In denominational schools, it is therefore more difficult to extricate a pupil from all experiences which are influenced by the school’s faith character.”*, and notes that *“where a school community is continuous with a faith community ... worship may be considered to be appropriate as part of the formal activity of the school.”*⁸

We would expect that parents will have taken this into account when selecting a school for their child. When they have chosen a school with a religious character, it would not be reasonable – or practical – for pupils to withdraw from all activities that incorporate aspects of that faith.

We are also concerned about the staffing and financial implications of the requirement to ensure that *“Where a pupil is withdrawn from RO, schools should make suitable arrangements for the pupil to participate in a worthwhile alternative activity.”*⁹, especially if a significant number of pupils in each year group choose to withdraw. Whilst this seems entirely reasonable in principle, it may be impossible, or disproportionately onerous in practice.

2. What do you anticipate being the main positive and negative implications of these changes, including for schools, pupils, parents and any financial implications?

Positive Implications

We continue to support the requirement on schools to respect the religion or belief of pupils and their parents, and to make provision for pupils withdrawing from Religious Observance and/or Religious and Moral Education to *“engage in a worthwhile alternative activity”*¹⁰ during that time. We strongly support the existing – and, we presume, continuing – requirement that *“In no circumstances should a pupil be disadvantaged as a result of withdrawing from RO.”*¹¹ although, as already stated, we do have concerns about the practicalities of managing this.

Those leading Jewish education provision in Scotland support a rights-based approach that facilitates children’s voices being heard. In practice, this would require schools to facilitate family conversations to resolve any difference in views.

We hope the new legislation may encourage non-denominational schools to consider whether it is reasonable to incorporate religious features into non-religious activities. While, for example, we fully recognise the long history of Christianity in Scotland, we are concerned that the incorporation of hymns into the annual prize-giving ceremony, causing some pupils to withdraw from an otherwise secular event, could engender feelings of *“I’m different”* for Jewish, Muslim, Hindu, Sikh, or Humanist pupils, and so risk the conclusion *“I don’t belong”*.

⁸ Guidance: Curriculum for Excellence: religious observance – Sections 24 and 26 (Scottish Government, 2017) <https://www.gov.scot/publications/curriculum-for-excellence-religious-observance/>

⁹ *ibid* – Section 25

¹⁰ *ibid*

¹¹ *ibid*

In particular, it risks alienating some of the pupils supposedly being honoured at the event. (For avoidance of doubt, it is entirely reasonable for schools with an explicitly Christian character to include hymns and prayers, etc., on such occasions, and we expect that families with a different faith or belief will have considered this probability before choosing the school for their children.)

Negative Implications

We are concerned at the potential for increased family disputes if children disagree with their parents about whether or not to withdraw from Religious Observance and/or Religious and Moral Education, and even more so if parents disagree, and their child or children side with one parent against the other. The consultation paper is silent about any proposed hierarchy for decision-making in such a case, and we suspect it will be left to schools to initiate and facilitate the family conversations envisaged above – without additional financial, staffing, or expert resources.

As already stated, we are also concerned by the need for additional financial and staffing requirements to enable schools to make appropriate provision for withdrawn pupils, particularly those of lower primary age who will need active adult supervision, or even active engagement.

How might any negative implications best be addressed?

In the case of family disputes concerning pupils at schools with a particular religious character, since the family has already effectively opted in to the ethos by selecting that school, we suggest there should be a strong presumption against withdrawal.

Additional financial and staffing requirements can only be met by Scottish Government provision of additional financial and staffing resources.

3. What insights or experiences do you have regarding how the right to withdraw from religious observance and RME/RE currently works in schools, including how schools communicate with parents, the pupil's voice and the practical application of the withdrawal process?

In part because of different understandings of what Religious Observance, and Religious and Moral Education mean, there is a wide disparity in the way the right to withdraw from Religious Observance, and Religious and Moral Education currently works. In some schools, including the Jewish denominational school, teachers facilitate conversations with the family to ensure that pupil's views are sought and shared, and, despite practical difficulties, seek to foster an inclusive ethos even when children are withdrawn. There are, however, schools in which pupils are sometimes made to feel 'other' if the possibility of withdrawing is even raised let alone acted on.

We have received many reports from parents of children at non-denominational schools concerned about explicitly Christian activities taking place on a regular basis. For example, the mother of one primary school pupil told us *“every month my son's school have an assembly where a Christian minister comes in. It would be unfair for my son to be the only person to be removed from this and single him out ... Where there are a tiny proportion of Jewish kids or Muslim kids in a school for example, I feel it is very 'othering' to make primary school kids sit in another room in a school assembly. What kind of message does this show our youngest children if they are excluded from such events? The other children will only see them as different. Children don't know or understand the reasoning or options to opt in/out and this can lead to bullying.”*

We have also frequently received reports about pupils being forced to participate in Christmas or Easter activities because this was deemed to be an appropriate musical, dramatic, or social – rather than religious – activity for the entire school or cohort. *“My child attends a non-denominational primary school.”* a parent told us. *“The huge amount of time spent on the Christmas nativity and Easter activities was a surprise to me as, perhaps naively, I thought non-denominational did not have such a big Christian slant. My son spent two hours at nativity rehearsals for over 5 weeks prior to the school show. This is in addition to the Christmas lunch, the Christmas fair, Christmas jumper day – I could go on ...”*.

The problem, however, goes beyond Christmas and Easter, as shown when the concerns of a Jewish parent who objected to his daughter being made to sing "The Water of Life" during primary school music lessons were dismissed by the teacher because *“it’s a beautiful sentiment”* and *“we all worship the same Gd really”*. As the parent of a child in another school who was also told *“we all worship the same Gd really”* commented, *“No, we don’t; that’s part of the point.”*

Yet another failure to understand is evidenced by the following letter from a head teacher, forwarded to us by a parent, and which can only exacerbate feelings of alienation: *“... we hold the Assembly in Church for all S3 to S6 pupils. Participating in a service in Church is an ancient tradition in the school. ... Irrespective of any question of personal belief, Easter is part of our cultural inheritance and the theme of renewal is of universal significance.”* The final phrase and the fact that the letter goes on to affirm that this *“celebrate[s] the many strengths”* of the school, just emphasises how far the school is from grasping the nature of cultural and religious diversity.

Some schools are open to suggestions such as inviting guests from different faiths to speak to pupils about common values and beliefs. Some, sadly, are not.

4. Do you think the proposed changes offer a reasonable way forward at this time to address questions about UNCRC compliance?

- Yes
 No

Since, as we have already pointed out, the consultation paper is unclear about the detail of what is being proposed, we are unable to comment on this question.

5. What mechanisms do you think would be most effective for ensuring that schools and parents give due weight to pupils’ views when considering withdrawal from religious observance or RME/RE?

In order to ensure consistency, formal and unambiguous Guidance should be produced to advise schools on procedures when there is a dispute between parents, or between parents (or one parent) and their child as to whether or not to withdraw from Religious Observance and/or Religious and Moral Education.

Some parents and pupils may find it helpful if a religious leader of their own faith or belief were also able to participate in the decision-making process, in order to assist in presenting faith-specific views about the Religious Observance, and Religious and Moral Education in the school concerned, and explain why these may – or may not – be problematic.

It must be made clear to pupils that the option to withdraw may only be exercised for genuine reasons of religious conscience, and not for frivolous reasons such as a friend having withdrawn, or disliking the teacher. The ethos of a school is not incidental, and when parents

have chosen a school with a particular religious character, it is reasonable to expect parents and pupils to provide a fuller explanation of why they wish to withdraw.

In the final analysis, there is unlikely to be any alternative to the school-facilitated “family conversation” to enable parents and pupils to express, hear, and respect each other’s views – and this will require additional resources to be made available to schools.

- 6. As part of our work to bring forward amendments to legislation, we will finalise a Children’s Rights and Wellbeing Impact Assessment, and an Equality Impact Assessment. To help inform this work, we would welcome your views on the impact of our proposals on children’s rights and equalities, as well as any related evidence/research you may be aware of.**

The right to be listened to – and heard – is vital to the wellbeing of all children, as is the right to decide their faith or belief – or lack of faith or belief – for themselves, but we are concerned at the potential of these amendments to create dissension in families, and between families and the school. This is likely to be detrimental to the overall wellbeing of children, especially if schools are not provided with appropriate resources and qualified personnel to assist in mediation. We therefore urge that the Children’s Rights and Wellbeing Impact Assessment, and Equality Impact Assessment should prioritise “wellbeing”, and ensure that the text of the amendments as well as the implementation guidance is child-centred, not rights-centred.

Summary

We are generally supportive of the proposals for alignment with the UN Convention on the Rights of the Child. We wait, however, to learn the detail of the proposals, and express concern for the practicalities, and potential difficulties that will confront both families and schools.