

Collective Worship and Religious Observance in Schools: An Evaluation of Law and Policy in the UK

AN AHRC NETWORK REPORT



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Collective Worship and Religious Observance in Schools: An Evaluation of Law and Policy in the UK

The vast majority of schools in the UK are required by law to organise acts of collective worship (England, Northern Ireland, Wales) or religious observance (Scotland) for their pupils. The duty in England, Northern Ireland and Wales was introduced under the Education Act 1944, and arose from the settlement between Church and State when the State took on responsibility for the provision of education. Even though various forms of religious observance had taken place in many schools prior to 1944, the legal requirement to provide *acts of worship* represented the first instance of a statutory duty in regard to religious matters in schools. Those who opposed it at the time noted that the requirement represented a 'revolution in British educational history'.¹

In Scotland, the Education (Scotland) Act 1872 gave schools the freedom to continue the customary practice of religious observance, which was not to be withdrawn unless there was a resolution in favour of discontinuation by the local electorate. Equivalent provision continues to this day.

The statutory duty to provide an act of collective worship/religious observance in schools has been controversial for decades. Issues include: disagreement about the appropriateness of such acts in an increasingly pluralistic, multicultural UK; the degree to which the current system properly affords respect for the rights of individuals and minority groups, including those with no religious faith; and concerns that the present arrangements do not adequately develop the spiritual/moral education of pupils, or promote a community spirit and shared values in schools.

This report aims to stimulate fresh thinking on collective worship and religious observance in schools. It sets out the law and educational concerns relating to each country, and considers the merits of a range of options available to policy makers. While many of the observations made in the report apply to all schools, the report restricts the majority of its recommendations to schools *without* a religious character, on the basis that separate and distinct consideration should be given to those schools with a designated religious character.

Education is a devolved matter. It is thus open for each of the four countries in the UK to consider the challenges, opportunities and recommendations set out in this report, and to choose the path most appropriate to its people, society and values in the 21st century.

The Research Network

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Aim: to examine the laws and policies governing collective worship and religious observance in UK schools.

The Steering Group met initially in Belfast in March 2014. The Report is based on papers presented by Network members at two seminars – Bangor University (September 2014) and University of Strathclyde (March 2015).

Further details at
<http://collectiveschoolworship.com/>

¹ W. Cove (Aberavon, Labour) HC Deb 10 March 1944, vol 397, cc 2359-2427, 2402.

THE CURRENT LANDSCAPE

ENGLAND

Context

The 2011 Census provided the following data on religious affiliation in response to the question 'what is your religion?': Christian 59.4%; No religion 24.7%; Religion not stated 7.2%; Muslim 5%; Other religions 3.7%². The census showed an uneven spread of religious groups throughout the country, with minority faith groups often concentrated in particular towns and cities.

The school system comprises community schools, foundation schools, academies, free schools, voluntary aided schools, voluntary controlled schools and independent schools. All schools, except independent schools, receive full or partial state funding. State funded schools may choose to have a religious character. Currently 81% of all state secondary schools and 63% of state primary schools do not have a designated religious character.

Law

School Standards and Framework Act 1998, ss.70-71 and Schedule 20 (as amended).

Schools must ensure that (subject to the disapplication procedure, considered below) pupils 'on each school day take part in an act of collective worship.'

For schools which have a designated religious character, the acts of worship must be in accordance with the religious character of the schools.

Worship in community schools without a religious character must be 'wholly or mainly of a broadly Christian character'.³ Collective worship is of a broadly Christian character 'if it reflects the broad traditions of Christian belief without being distinctive of any particular Christian denomination.'

Such schools may provide some acts of worship that are not 'Christian' if there are circumstances relating to the ages, aptitudes and family backgrounds of the pupils which are relevant for determining the character of the collective worship. However, the majority of acts during a school term must nevertheless be entirely or mainly 'Christian' in nature.

A school may apply for a disapplication of the Christian collective worship requirement to allow a school or a group within it to hold a separate form of collective worship.

² Source: <http://www.nomisweb.co.uk/census/2011>. The question which was asked (What is your religion?) was intended to establish religious affiliation, i.e., 'that is how we connect or identify with a religion, irrespective of actual practice or belief'. <<http://www.ons.gov.uk/ons/rel/census/2011-census/key-statistics-for-local-authorities-in-england-and-wales/rpt-religion.html#tab-Measuring-religion>>

³ The original duty introduced by the 1944 Education Act did not stipulate that the worship should be Christian in nature. This additional requirement was added in the Education Reform Act 1988, ss 6-7.

⁴ In 2012 the Department for Education confirmed to the National Association of Standing Advisory Councils on Religious Education (NASACRE) and the Association of Religious Education Inspectors, Advisers and Consultants (AREIAC) that 'schools can use it or not as they see fit'. 'Circular 1/94: More light than heat?' SACRE NEWS, Spring 2013, 5. NASACRE and AREIAC have since issued a joint statement to their members advising them to encourage schools to set aside the Circular when they plan for collective worship.

Academies and free schools without a religious character are required to provide collective worship in line with each school's funding agreement with the Government. These agreements mirror the above requirements set out for community schools under the 1998 Act.

Foundation schools that are not of a religious character must provide a daily act of collective worship in line with the trust deeds of the school and in accordance with the policy of the governors.

In all schools there is a parental right to withdraw children from collective worship. Sixth formers have an independent right of withdrawal.

Policy and Guidance

Religious Education and Collective Worship, Circular 1/94, September 1994.

The Circular provides non-statutory guidance. It states explicitly that its guidance 'does not constitute an authoritative legal interpretation of the provisions of the Education Acts or other enactments and regulations; that is exclusively a matter for the courts.'⁴

The Circular sets out the aims of collective worship as follows: 'Collective worship in schools should aim to provide the opportunity for pupils to worship God, to consider spiritual and moral issues and to explore their own beliefs; to encourage participation and response, whether through active involvement in the presentation of worship or through listening to, watching and joining in the worship offered; and to develop community spirit, promote a common ethos and shared values, and reinforce positive attitudes.'

The Circular states that worship 'should be concerned with reverence or veneration paid to a divine being or power'. It further notes that a 'broadly Christian act' must 'contain some elements which relate specifically to the traditions of Christian belief and which accord a special status to Jesus Christ.'

Inspection

The Office for Standards in Education, Children's Services and Skills (Ofsted) inspects collective worship in schools that have no designated religious character. In all other schools, acts of collective worship are examined by inspectors appointed by the school's governing body.

NORTHERN IRELAND

Context

The 2011 Census provided the following picture on religious affiliation: Christian 82.2%; No religion 10%; Religion not stated 7%; Other religions 0.8%.

The school system is predominantly public with very few private schools. Public schools are classified as follows: (1) controlled (2) maintained (3) voluntary (4) integrated and (5) Irish medium. All such schools are termed 'grant-aided'.

Law

The Education and Libraries (Northern Ireland) Order 1986, Articles 21-22 (as amended).

The school day in every grant-aided school must 'include collective worship whether in one or more than one assembly'.

In controlled schools (which have traditionally served the Protestant community) the nature of the worship must not 'be distinctive of any particular religious denomination'. In other school types (mainly Catholic schools and the small cohort of integrated schools) denominational provision is acceptable, subject to the approval of Boards of Governors.

The legislation does not specify that worship must be Christian 'although such a requirement might be inferred from the general context of the legislation and in particular the preceding references to religious education.'⁵

The right to withdraw children from collective worship is available to parents. No independent right of withdrawal is available to pupils.

The Statutory Rules and Orders of Northern Ireland, 1948 3(1) states that 'the time at which collective worship is held ... in any county school or voluntary school, shall be clearly shown on the time-table of the school'.⁶ No rules relate to the aims and nature of the required collective worship.

Policy and Guidance

No resource exists.

Inspection

The Education and Training Inspectorate (ETI) has no jurisdiction over acts of collective worship except to note whether the school timetable schedules such occasions.

⁵ T. Gallagher and L. Lundy, 'Religion, Education and the law in Northern Ireland', in J.L. Martínez López-Muñiz, J. De Groof, and G. Lauwers (eds.) *Religious Education in Public Schools: Study of Comparative Law* (Springer, 2006) 175.

⁶ County schools later became known as controlled schools.

SCOTLAND

Context

The 2011 Census question, 'What religion, religious denomination or body do you belong to?' produced the following results: Christian 54%; No religion 37%; Religion not stated 7%; Other religions 2%.

The vast majority of schools (96%) are state schools. These schools are non-denominational by default but local education authorities are empowered to provide denominational schools where there is sufficient demand. At present 14% of schools are denominational, the majority of which are Roman Catholic.

Law

Education (Scotland) Act 1980, ss 8-9.

In all state-funded schools, the practice of religious observance should be made available, unless a resolution to discontinue this has been passed by the local education authority and approved by the electors in that local authority area.

No explicit guidance is provided within the legislation as to what observance should entail. However, reference is made to the 'custom of public schools in Scotland'. Customarily, Scottish schools were Presbyterian in character, which offers implicit guidance as to what the legislation was intended to encompass. Jany Scott notes that framing the provision in terms of custom, without an express connection to a particular religious tradition, has allowed for changes in practice to develop gradually without the need for legislative amendment.⁷

The right to withdraw children from religious observance is available to parents. No independent right of withdrawal is available to pupils.

Policy and Guidance

Curriculum for Excellence: Provision of Religious Observance in Schools, February 2011.

Religious observance is defined as comprising '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'.

The guidance notes that 'Religious observance has an important part to play in the development of the learner's four capacities: a successful learner, confident individual, responsible citizen and effective contributor. It should also provide opportunities for the school community to reflect upon and develop a deeper understanding of the dignity and worth of each individual and their contribution to the school and wider communities'.

The guidance recognises that for some schools a term such as 'Time for Reflection' might be a more appropriate description of the activities carried out in fulfilment of the requirement of religious observance.

In Roman Catholic schools, 'Catholic Liturgy will largely shape the nature and frequency of religious observance activities in the classroom and in the wider school community'.

In non-denominational schools, religious observance is encouraged to draw upon the 'rich resources' of Scotland's Christian heritage. However, the guidance notes that: 'many school communities contain pupils and staff from faiths other than Christianity or with no faith commitment, and *this must be taken fully into account in supporting spiritual development*. It is of central importance that all pupils and staff can participate with integrity in forms of religious observance without compromise to their personal faith' (emphasis included in original).

Every school should provide opportunities for religious observance at least six times in a school year and preferably more often than this.

Where a child is withdrawn from religious observance, 'schools should make suitable arrangements for the child to participate in a worthwhile alternative activity'.

Inspection

Education Scotland inspects the religious observance duty in all state schools, including denominational schools.

⁷J. Scott, *Education Law in Scotland* (W. Green. 2003), 154-155.

WALES

Context

The 2011 Census provided the following picture on religious affiliation: Christian 57.6%; No religion 32.1%; Religion not stated 7.6%; Other religions 2.7%.⁸

The vast majority of schools (98%) are in the state sector, with 86% of these having no designated religious character.

Law

School Standards and Framework Act 1998, ss.70-71 and Schedule 20 (as amended).

Schools must ensure that pupils 'on each school day take part in an act of collective worship.'

For schools which have a designated religious character, the acts of worship must be in accordance with the religious character of the schools.

Worship in state schools without a religious character must be 'wholly or mainly of a broadly Christian character'.⁹ Collective worship is of a broadly Christian character 'if it reflects the broad traditions of Christian belief without being distinctive of any particular Christian denomination.'

Schools may provide some acts of worship that are not 'Christian' if there are circumstances relating to the ages, aptitudes and family backgrounds of the pupils which are relevant for determining the character of the collective worship. However, the majority of acts during a school term must nevertheless be entirely or mainly 'Christian' in nature.

A school may apply for a disapplication of the Christian collective worship requirement to allow a school or a group within it to hold a separate form of collective worship.

The right to withdraw children from collective worship is available to parents. Sixth formers have an independent right of withdrawal.

Policy and Guidance

Religious Education and Collective Worship, Circular 10/94, September 1994.

The Circular provides non-statutory guidance. It states explicitly that its guidance 'does not constitute an authoritative legal interpretation of the provisions of the Education Acts or other enactments and regulations; that is exclusively a matter for the courts.'

The Circular sets out the aims of collective worship as follows: 'Collective worship in schools should aim to provide the opportunity for pupils to worship God, to consider spiritual and moral issues and to explore their own beliefs; to encourage participation and response, whether through active involvement in the presentation of worship or through listening to, watching and joining in the worship offered; and to develop community spirit, promote a common ethos and shared values, and reinforce positive attitude.'

The Circular states that worship 'should be concerned with reverence or veneration paid to a divine being or power'. It further notes that a 'broadly Christian act' must 'contain some elements which relate specifically to the traditions of Christian belief and which accord a special status to Jesus Christ.'

Inspection

Estyn, the Inspectorate for Education and Training, inspects collective worship in schools that have no designated religious character. In all other schools, acts of collective worship are examined by inspectors appointed by the school's governing body.

⁸ The question which was asked (What is your religion?) was intended to establish religious affiliation, i.e., 'that is how we connect or identify with a religion, irrespective of actual practice or belief'. <<http://www.ons.gov.uk/ons/rel/census/2011-census/key-statistics-for-local-authorities-in-england-and-wales/rpt-religion.html#tab-Measuring-religion>>

⁹ The original duty introduced by the 1944 Education Act did not stipulate that the worship should be Christian in nature. This additional requirement was added in the Education Reform Act 1988, ss 6-7.

THE PRIMARY CONSIDERATION: RATIONALE

Any evaluation of the appropriateness and effectiveness of holding collective worship or religious observance in schools demands both discussion of, and agreement on, the underlying rationale for the existence of the duty to carry out these practices.

In Scotland religious observance was not introduced as a duty but rather was simply permitted to continue as a customary practice in schools. For this reason, the original rationale for its existence was never explicitly considered. However, in 2011, the Scottish Government expressly noted that religious observance aimed to promote 'spiritual development' and celebrate 'shared values of the community' (see p. 4 above).

The original rationale for the introduction of the collective worship duty in England and Wales in the 1944 Education Act, and subsequently largely replicated in the Northern Ireland Act 1947, arose from the contemporaneous needs of Church and State: the wish to revive and secure the place of Christianity in the life of the country, and the need to ensure the nation's future well-being at a time when a war was being fought in Europe and beyond.¹⁰ Freathy and Parker note that during the parliamentary passage of the 1944 Act

[T]he Second World War was frequently portrayed by British clerics and politicians as a spiritual and moral crisis threatening the Christian foundations of civilisation, freedom and democracy. Such rhetoric was repeatedly coupled with an assertion that Britain's social and political tradition and values could only endure the threat of idolatrous totalitarianism abroad and pre-war trends towards faithlessness at home if the nation's Christian identity was reinforced and reinvigorated.¹¹

The concurrent needs of Church and State thus justified the introduction of the statutory requirement of collective school worship. Seventy years later, and in a very different society, it is appropriate to ask whether these needs provide a satisfactory rationale today. A reappraisal may identify new and different needs which could lead both to a revised rationale, and a revised means of fulfilling those needs. It is also possible that a review of the rationale may conclude that there is no reason for continuing the duty in any form.

In appraising the current collective worship/religious observance duty – and in determining a rationale for any future duty – six questions require consideration.

1. *Is there a rationale that derives from the personal needs of individual pupils?*

E.g., to offer opportunities for approaching and reflecting on moral questions, to develop critical thinking abilities, to promote spiritual development, etc.

2. *Is there a rationale that derives from the educational values and social needs of the school?*

E.g., to create a sense of community within the school, to foster an understanding of shared values, etc.

3. *Is there a rationale that derives from the needs of wider society?*

E.g., to develop a sense of belonging to the wider community, to the country, to a diverse (religiously plural and secular) society, etc.

4. *Is there a rationale that derives from a combination of the above mentioned personal, educational and social needs?*

5. *How far is any rationale rooted in a need to provide for a communal pupil experience? And, if so, to what extent is group size (class, year, stage, whole school) and frequency (daily, weekly, monthly) critical for this rationale to be realised?*

E.g., to share an activity, experience and/or values, etc.

6. *If needs (personal/educational/social) are identified, can they only be met through having a distinct and designated period of time (as currently occurs with collective worship/religious observance) or can they be adequately fulfilled through existing activities and subjects within the curriculum?*

E.g., by further developing curriculum subjects currently dealing with religious, moral and social education.

¹⁰ Eg., HL Deb, 18 July 1944, vol. 132, cc 950-82, 970. See also, the Archbishop of Canterbury, HL Deb 18, July 1944, vol. 132, cc 950-82, 972.

¹¹ R. J. K. Freathy and S. G. Parker, 'Freedom from Religious Beliefs: Humanists and Religious Education in England in the 1960s and 70s', in S. G. Parker, R.J.K. Freathy and L.J. Francis (eds) *Religious Education and Freedom of Religion and Belief* (Peter Lang, 2012) 223.

OPTIONS FOR THE FUTURE

Three options are set out, below, in relation to the possible future direction of law and policy in regard to collective worship and religious observance. These options are: (1) maintain the status quo by continuing with the current arrangements; (2) abolish the collective worship/religious observance requirements; and (3) reform the duty on schools to offer acts of collective worship/religious observance.

OPTION 1: MAINTAIN STATUS QUO

A number of areas of concern exist if the current law and policy on collective worship and religious observance remains unchanged. These are explored with reference both to common concerns, which are expressed across the UK as a whole, and more specific concerns that are associated with particular countries.

COMMON CONCERNS

LACK OF COHERENT RATIONALE AND NON-COMPLIANCE

The absence of a clear and accepted rationale for the duty of collective worship and religious observance arguably leads to both non-compliance owing to uncertainty as to what is expected (i.e., the nature of the activity) and non-compliance on grounds of principle. Widespread non-compliance may be expected to continue if the rationale for such activities is not coherently articulated and acknowledged.

Where the aims for the duty of collective worship are set out (e.g., in the English and Welsh Circulars), these appear contradictory in the context of a diverse pupil population, specifically the aims to provide an opportunity to worship God yet simultaneously to develop a community spirit and promote a common ethos. Furthermore, there is an inherent tension and contradiction between the presentation of collective worship as inclusive and appropriate for all, and the existence of procedures for disapplication and withdrawal on the grounds that it might not be.

In Scotland the arguably contradictory nature of the

policy guidance poses the question of whether it is possible to practise religious observance in a way that can include all pupils when beliefs are not shared within the school community.

In Northern Ireland the purpose of requiring acts of collective worship to take place in schools is neither stated in the legislation nor in any guidance material.

FAILURE TO PROTECT HUMAN RIGHTS STANDARDS

The protection of the right to freedom of religion or belief of those who do not wish to participate is undermined by current practices. There may also be questions of discrimination against those pupils and their families who do wish to have collective worship provided but who are not Christian. While the right to withdraw exists, concerns surround its effectiveness in protecting the standards of the UN Covenant on Civil and Political Rights (1966), the UN Convention on the Rights of the Child (1989), the European Convention on Human Rights (1950) and the Human Rights Act 1998. There are concerns that schools may fail to:

- ♦ provide sufficient information about the nature of acts of collective worship/religious observance so as to enable an informed exercise of the right to withdrawal where it exists;¹²
- ♦ advise parents (and, where legislation permits, relevant pupils) of the right to withdraw and may not have clear procedures for the exercise of this right;¹³
- ♦ offer an alternative that satisfies the wishes of parents (and, where permitted, relevant pupils).¹⁴

Furthermore, the restriction of the right of withdrawal to parents in Scotland and Northern Ireland, and to parents and sixth-formers in England and Wales, raises concerns that the legislation fails to respect the rights of all children and young people to have their views heard and taken account of, in accordance with their individual capacity, in decisions affecting them.¹⁵ This may mean that respect is not afforded to the child's right to freedom of religion or belief should their views be at variance with those of their parents.

¹² *Folgerø v Norway* (2008) 46 EHRR 1147, para 84; *Hasan and Eylem Zengin v. Turkey* (2008) 46 EHRR 1060, para 76.

¹³ *Folgero v Norway*, *ibid*, paras 96-102.

¹⁴ General Comment No. 22, CCPR/C/21/Rev.1/Add.4, para 6.

¹⁵ UNCRC, Article 12 (right to be heard), Article 5 (evolving capacities of the child); General Comment No. 12, CRC/C/GC/12.

ACCOUNTABILITY IN IMPLEMENTATION

Ambiguity in legislation and official guidance (e.g., the nebulous nature of terms such as 'collective worship' and 'religious observance') coupled with weaknesses in accountability structures results in a wide diversity of interpretations and practice. The lack of clarity and accountability means that headteachers and class teachers may, on occasion, exercise undue or inappropriate personal influence over the content and style of collective worship/religious observance. On the other hand, this same lack of clarity and accountability may mean that such teachers are at times forced (or unwilling) to make decisions about the content of collective worship/religious observance for which they may be inadequately prepared.

COUNTRY SPECIFIC CONCERNS

ENGLAND

1. There is evidence of a high level of non-compliance with schools' legal duties to provide acts of collective worship, particularly in the secondary education sector. For example, in 2004, the Chief Inspector of Schools drew Parliament's attention to the fact that 76% of secondary schools were breaking the law by failing to provide daily acts of worship,¹⁶ while a survey in 2011 for the BBC found that, out of 500 parents, 64% reported that their children did not attend school worship.¹⁷

2. The reporting of the implementation of legal obligations in this area is also problematic. Ofsted reports reveal a general lack of interest in collective worship.

3. There is confusion about the current status of DfE Circular 1/94. It has been claimed that the Department for Education not merely regards the Circular as having 'no legal or semi legal [or] quasi-legal status', but that it 'does not represent the Government's official advice on collective worship which schools are in some sense obliged to follow', meaning that 'all schools and Academies can choose whether or not to use the Circular'.¹⁸ Thus, uncertainty surrounds the extent to which schools should make reference to the Circular in complying with their legal obligations to provide acts of collective worship.

¹⁶ P. Curtis, 'End Daily Collective Worship in Schools says Ofsted Head', *The Guardian*, 11 June 2004 <<http://www.theguardian.com/education/2004/jun/11/schools.uk>>

¹⁷ <[http://comres.co.uk/wpcontent/themes/comres/poll/BBC_Religion_Worship_in_schools_results_\(plus_regions\)_July11.pdf](http://comres.co.uk/wpcontent/themes/comres/poll/BBC_Religion_Worship_in_schools_results_(plus_regions)_July11.pdf)>

¹⁸ See comments of the National Association of Standing Advisory Councils on Religious Education and the Association of Religious Education Inspectors, Advisors and Consultants at: <http://www.nasacre.org.uk/media/file/Spring_newsletter_2013.pdf> 6.

¹⁹ A. Mawhinney, U. Niens, N. Richardson and Y. Chiba, 'Opting out of Religious Education: the Views of Young People from Minority Belief Backgrounds', Research report for AHRC/ESRC Religion and Society Research Programme (2010).

²⁰ Education Scotland is an executive agency accountable to the Scottish Government and is charged with supporting quality and improvement in Scottish education.

NORTHERN IRELAND

1. The absence of an inspection regime in relation to collective worship means that there is no mechanism for monitoring the activity and hence no means to evaluate the current practice.

2. There is no departmental circular or any other form of guidance which exists to advise schools in relation to collective worship.

3. The lack of government guidance is compounded by uncertainty around where official responsibility lies in respect of collective worship thereby exacerbating the lack of support available to teachers and schools in the implementation of the duty.

4. There is insufficient empirical evidence regarding attitudes to and the practice of collective worship. The evidence that does exist suggests that many teachers are unfamiliar with their responsibilities around opt-outs and that sometimes teachers offer inaccurate advice to parents.¹⁹

SCOTLAND

1. The term 'religious observance' is inappropriate to describe acts designed to include children of all faiths and none. Non-faith pupils and families may feel excluded from the school community whilst the focus remains on conducting personal search through religion, predominantly the Christian faith. Strong arguments exist to replace the statutory term 'Religious Observance' with the term 'Time for Reflection' in order to be more inclusive.

2. There is a lack of understanding amongst teachers and pupils as to the appropriate implementation of the religious observance requirement under current policy guidance, with no clear 'good practice' model to follow outside of traditional Christian worship.

3. There is a concern about a lack of clarity from Education Scotland in terms of what its inspection teams are observing, assessing and commenting on in relation to religious observance.²⁰

4. In addition to international standards, procedures surrounding the conduct of Religious Observance may fall foul of relevant human rights standards, as protected under the Standards in Scotland's Schools etc Act 2000. In particular, the absence of a right for children of sufficient maturity to withdraw themselves

from Observance may conflict with the child's right to education and to freedom of religion or belief, and may not comply with the duty to consult children on the day-to-day running of the school.

WALES

1. There is a lack of empirical evidence in relation to the issue of collective worship in schools – most of the data available is on an England and Wales basis. The evidence that does exist suggests that some schools refuse to implement the duty on principle, believing it to be an inappropriate obligation to place on state funded schools.²¹

2. While the English Circular emphasises the desirability of the 'collective' nature of the act, Welsh Circular 10/94 focuses on the requirement that the majority of acts each term should be wholly or broadly Christian in character. In the context of contemporary Welsh society and in the wake of the principles and aims developed in the Donaldson Review, this emphasis requires re-consideration.²²

3. Estyn guidance errs in its apparent understanding that Circular 10/94 forms part of the legal framework directing the conduct of collective worship in schools. There is legitimate concern that those working in schools also believe that the Circular has legal status.

4. A striking aspect of the Estyn Guidance is its heavy focus on the worship component of the term 'collective worship' with little attention given to the collective aspect, that is, whether the act develops a community spirit, promotes a common ethos and shared values, and reinforces positive attitude. Estyn's approach contrasts with that taken in the guidance offered by the Welsh Association of SACREs.

5. Estyn's inspection requirement reiterates the requirement set out in the Circular that more than 'passive attendance' is needed: for pupils of a different or no faith, this may require acting contrary to their conscience.

OPTION 2: ABOLISH DUTY

A consideration of the rationale to require schools to hold acts of collective worship/religious observance – coupled perhaps with the concerns relating to the associated legislation – may conclude there is no justification for continuing to impose these statutory requirements in any form. Of course, schools may

choose to hold collective gatherings on a voluntary basis. These may take the form of gatherings where school news is announced and celebrated, hereafter termed *school assemblies*. However, some schools may choose to extend these assemblies to promote certain educational values, and these are hereafter referred to as *extended assemblies*. Each approach raises issues worthy of consideration.

CONCERNS

MISSED OPPORTUNITY FOR PUPIL DEVELOPMENT AND SOCIAL COHESION

If the duty to hold acts of collective worship/religious observance is abolished, some schools may legitimately decide not to conduct 'extended assemblies'. This decision may be based on a number of factors ranging from an unwillingness or unease with providing this type of activity to matters such as staff availability and expertise, and other resource implications. The absence of an 'extended assembly', however, may arguably mean that an opportunity could be lost for the transmission and sharing of positive moral, social and spiritual values within the school community in a way that may not be realisable through curriculum subjects. Additionally, the removal of any form of collective worship/religious observance may prompt some parents to place their children in schools of a religious character, thereby increasing the division between faith and community sectors.

THE NATURE OF 'EXTENDED ASSEMBLIES'

In the absence of a statutory duty, there will remain a need for a mechanism to ensure that the aims and conduct of 'extended assemblies' are inclusive and respectful of the integrity of pupils, parents and teachers. This may take the form of non-statutory national guidance. The challenge in devising such guidelines would be to find a balance between government control and school discretion. If the official guidance is insufficiently prescriptive, the risk exists that 'extended assemblies' may be divisive and promote non-inclusive values and qualities, a challenge that arguably exists with current guidelines in England and Wales. Additionally, if 'extended assemblies' were to resemble 'religious assemblies', an education system could become increasingly divided along religious/belief lines.

²¹ R. Sandberg and A. Buchanan, 'Religion, Regionalism and Education in the United Kingdom: Tales from Wales' in M. Hunter-Henin (ed) *Law, Religious Freedoms and Education in European* (Ashgate, 2011), Chapter 5, 118.

²² The Review was commissioned by the Welsh Government in 2014 to consider new curriculum and assessment arrangements; G. Donaldson *Successful Futures: Independent review of curriculum and assessment arrangements in Wales* (2015).

RESPONSIBILITY FOR DECIDING THE NATURE OF 'EXTENDED ASSEMBLIES'

In the absence of a statutory duty, a major challenge exists in devising the means by which a school reaches a decision on the nature of its 'extended assemblies'. Governors (in those countries where they exist), headteachers and teachers' perspectives and personal educational philosophies may at times come to exercise undue influence. A recent proposal in this regard with respect to England suggests that governors of schools would play a central role.²³ However, there is a risk of these individuals allowing their personal perspectives to overly influence discussions and outcomes. Furthermore, in a sensitive and complicated area such as moral, social and spiritual development, wider concerns surrounding the effectiveness of governors as a governance mechanism in schools (unrepresentative nature of boards, many unfilled positions, a heavy workload, a lack of relevant skills)²⁴ may be exacerbated. These concerns point to a need for explicit Government guidance in setting out clear parameters and in offering an extensive range of good practice models. It is important for any such guidance to be sufficiently flexible to adapt to contextual and local needs, given that some are likely to be wary of perceived undue government interference, and perceptions of a lack of alternatives to a dominant state discourse.

ACCOUNTABILITY AND 'EXTENDED ASSEMBLIES'

Inspection bodies would have an important role to play in ensuring that schools adhere to Government guidance in respect of 'extended assemblies'. At a local level, parents and pupils would need to be fully informed as to the discussions surrounding the aim and nature of 'extended assemblies' on an initial and on-going basis, and this information would need to be clearly set out in the school literature and easily accessible to parents and pupils.

PROTECTION OF HUMAN RIGHTS STANDARDS IN 'EXTENDED ASSEMBLIES'

In common with all activities that take place in schools, the right to freedom of religion and belief must be protected during 'extended assemblies'. The relevant standard of this right in an educational context is that any information conveyed to pupils must be done so in a 'neutral and objective way';²⁵ or, in the words of the European Court of Human Rights (ECtHR), must be conveyed in an 'objective, critical and pluralistic manner'.²⁶ The case law of the UN Human Rights Committee and the ECtHR is clear that, if this is not so, opt-outs must then be provided to the children of those parents who do not wish their children to participate in such activities.²⁷ The definition of what is 'neutral and objective' or 'objective, critical and pluralistic' is decided on a case by case basis. Case law has identified some activities that do not reach the required threshold. These have included the saying of prayers and attendance at religious services.²⁸

The right to opt out exists as a result of the UK's international legal obligations and does not cease to exist in the absence of domestic law provisions. It will always remain open to individuals to exercise the right to opt-out of 'extended assemblies' if the nature of these assemblies does not conform to human rights standards.

The issues identified in Option 1 (see p. 7 above), in relation to the operation of opt-outs and the current statutory duty, would be equally applicable to opt-out provisions with respect to 'extended assemblies'.

²² R. Sandberg and A. Buchanan, 'Religion, Regionalism and Education in the United Kingdom: Tales from Wales' in M. Hunter-Henin (ed) *Law, Religious Freedoms and Education in Europe* (Ashgate, 2011), Chapter 5, 118.

²³ C. Clarke and L. Woodhead, *A New Settlement: Religion and Belief in Schools* (www.faithdebates.org.uk, 2015) 27.

²⁴ C.M. Farrell, 'Governance in the UK Public Sector: the Involvement of the Governing Board', *Public Administration* (2005), 83: 89–110; C. Dean, A. Dyson, F. Gallannaugh, A. Howes and C. Raffo, *Schools, governors and disadvantage* (Joseph Rowntree Trust, 2007); 'Many schools "short of governors"', <<http://www.bbc.co.uk/news/education-25591616>> January 2014.

²⁵ *Erkki Hartikainen v. Finland*, Communication No. 40/1978, U.N. Doc. CCPR/C/OP/1, para 10.4.

²⁶ *Kjeldsen v Denmark* (1976) 1 EHRR 711, para 53.

²⁷ *Erkki Kartikainen v Finland*, n.25, para 10.4; *Kjeldsen v. Denmark* (1976), *ibid*, para 53.

²⁸ *Folgerø v Norway*, n. 12, para 53. *Leirvag v Norway*, Communication No. 1155/2003, U.N. Doc CCPR/C/82/D/1155/2003, paras 14.3, 9.18.

OPTION 3: REFORM DUTY

The nature of any approach to reform must be fundamentally driven by the revised rationale for the statutory duty as identified by each government within the UK. This rationale would clearly be influenced by the requirements, aspirations and priorities of each country.

The challenges in the articulation and realisation of a reformed duty should not be underestimated. Going forward, governments would need to be mindful of the reasons for non-compliance with the current duty, namely, objection to the underlying aims and uncertainty as to the nature of the requirements in practice. It would therefore be essential that the rationale for any reform has widespread support and that schools are clear in what is expected of them.

The potential directions for reform set out in this section represent a sample of the possible options. Each approach raises its own opportunities and concerns, which are discussed below.

POTENTIAL APPROACHES

1. SCOTLAND: REPLACE THE STATUTORY TERM 'RELIGIOUS OBSERVANCE' WITH 'TIME FOR REFLECTION'

There have been calls on the part of some non-religious organisations, as well as the Church of Scotland, to change the term 'Religious Observance' to 'Time for Reflection'. Education Scotland's documentation and website now make explicit reference to Time for Reflection. This term is seen as more inclusive of Scotland's diverse, multi-faith community, and supports and acknowledges the diversity of Scotland's children, including those with no religion or faith. The change would necessitate the revision of current guidance. However, concerns may be expressed by those who would view any such change as constituting a dilution of the role and status of organised religion in public life.

2. ENGLAND AND WALES: REMOVE THE REQUIREMENT THAT ACTS OF COLLECTIVE WORSHIP BE OF 'A BROADLY CHRISTIAN CHARACTER'

In England and Wales the removal of the requirement that acts of collective worship be of a 'broadly Christian character' would return these countries to a

pre-1988 position. The 'broadly Christian' requirement was introduced by the Education Reform Act 1988. The original duty, however, as set out in the Education Act 1944 simply required that 'the school day in every county school and every voluntary school shall begin with collective worship on the part of all the pupils in attendance'. In Northern Ireland the 'broadly Christian' requirement was never introduced although it may be inferred from the nature of the provisions dealing with religion education (see p. 3 above).

The retention of a duty to hold acts of collective worship (albeit not of a specifically Christian nature) in England, Northern Ireland and Wales would demand exploration and agreement on the distinction between 'corporate' and 'collective' worship. Whereas the former may be understood as referring to the worship by a group defined by a shared faith identity, the latter could denote bringing together those of different faith positions and identities. Such an exercise would inevitably lead to an examination of what it is that unites the collective in the context of 'collective worship', beyond mere physical presence. There may be lessons from other disciplines (e.g., the concept of co-intentionality, taken from the field of inter-faith relations) that might assist in answering the question, 'what, in a religiously plural context, unites those gathered for collective worship?' The reform of the duty, and the outcome of subsequent discussions, would necessitate the revision of current guidance in England and Wales. However, some may express concerns about whether it is possible to distinguish between corporate and collective worship, and whether the term 'worship' is ever amenable to an understanding that can be embraced by those with no religion or faith.

3. ENGLAND, NORTHERN IRELAND AND WALES: INTRODUCE A DUTY OF 'TIME FOR REFLECTION'

The current requirement to provide an act of collective worship could be replaced by a duty on schools to introduce a 'Time for Reflection'. Based on the principle of inclusiveness, this proposal would reflect the importance of affording recognition to the increasingly secular, yet also multi-faith, nature of the four countries in the UK. Such an approach derives from a rationale that there are merits to holding collective gatherings which have a moral and spiritual basis, but are not underpinned by a formal

legal requirement for a religious component, such as 'worship'.

A 'Time for Reflection' could contribute to and aim to foster the spiritual development of pupils – a long standing aim of education in the UK. The term 'spiritual development' was first used in the 1944 Education Act where it was seen as a more inclusive term than 'religious'. Indeed, the case for a duty that promotes spiritual development in education is strengthened by the fact that it sits neatly alongside a broad range of contemporary pedagogical values, such as 'pupil voice', space for reflection, enquiry, creativity and experiential learning, with a special emphasis on holistic education and the whole child. The Ofsted Handbook (2015) offers a way of thinking about spiritual development for pupils as the:

- ♦ ability to be reflective about their own beliefs, religious or otherwise, that inform their perspective on life and their interest in and respect for different people's faiths, feelings and values;
- ♦ sense of enjoyment and fascination in learning about themselves, others and the world around them;
- ♦ use of imagination and creativity in their learning; and
- ♦ willingness to reflect on their experiences.

A duty of a Time for Reflection may closely resemble aspects of the current Scottish model, which explicitly aims to promote the spiritual development of all pupils and to celebrate shared values. Education Scotland provides a template and examples of what practice under this model might look like. Pupils might, for example, explore issues of respect and fairness by reflecting on the experiences of asylum seekers/refugees, or they might consider significant events or milestones in their lives. These examples might appropriately be tailored for a range of participants, and would feed into the spiritual development of children irrespective of family background.

A duty of a Time for Reflection may additionally, or alternatively, choose to focus on the provision of Philosophy with Children (PwC) in the classroom. PwC allows children time and opportunities to reflect on a range of issues. It promotes thinking about oneself, the world and one's place in the world, and it encourages children to ask important and relevant questions, ranging from why do we exist and why do we need friends, to what is knowledge and how do we know what is right? In encouraging active pupil participation, as well as engagement with and respect for others and their opinions, it can be argued

that PwC affirms and promotes positive pedagogical values.

There is a range of approaches to PwC; all engage children in a structured dialogue with the goal of supporting the development of their philosophical thinking. PwC sessions involve a stimulus, most frequently a text such as a poem, short story or newspaper extract. The children raise questions and then discuss the one chosen for investigation. The majority of PwC practices encourage children to offer agreement or disagreement with statements being made but, crucially, the children must provide reasons for their agreement or disagreement. The teacher chairs the sessions and intervenes to request clarity or to highlight areas that demand further exploration. While PwC was originally designed to be undertaken with a class of children, there are opportunities to extend this to a general discussion or dialogue with a much larger group. It is in the class environment that topics specific to that smaller group of children may arise, but broader themes may emerge in whole school sessions. It might be, for example, that the school is exploring issues around rights and the question posed requires children to consider how people should be punished for wrong-doing.

Were a duty for a Time for Reflection to include PwC, it would be undertaken regularly. Within a class it would ideally be practised on a weekly basis. In undertaking weekly PwC sessions in their classrooms, an inclusive and respectful tone will be established. This would then be taken into the wider context of a whole school setting where children have engaged in philosophical discussion and have become confident enough in this that they can translate it to a whole school or sub-school group setting. The demands for this are not on the children but on the teacher facilitating the session since s/he has to be able to facilitate large group dialogue that affords more opportunities to raise different perspectives than in collective worship/religious observance. PwC, while able to stand alone as a way of promoting reflection, would also complement religious education more generally.

The creation of a duty of a Time for Reflection could cause disquiet on a number of fronts. These could, for example, include concerns that a Time for Reflection risks undermining the distinctiveness of collective worship, emphasizes individual development at the expense of communal development, and, it might potentially have a negative impact on religious literacy.

CONCLUSIONS AND RECOMMENDATIONS

The recommendations below are directed to the issue of collective worship/religious observance in schools without a designated religious character. The sole exception is Recommendation 3 which applies to all schools.

FUTURE DIRECTIONS

1. The lack of a clear and agreed rationale for the current duties relating to collective worship and religious observance makes it difficult for governments to evaluate existing law and policy, and to assess future approaches.

It is recommended that each government urgently establishes a working group to consider, in the first instance, whether a rationale exists to require schools to arrange a collective activity in a distinct and designated period within the school timetable. This deliberation should take place within the framework of the six questions relating to rationale set out in this report, and in light of the aims and values of each country's educational system.

2. In deciding on future options (maintain, abolish or reform current duty), governments need to learn from the difficulties experienced by schools in implementing the current duty. For example, uncertainty as to the nature of the requirements, objections to the underlying aims, lack of teacher expertise and education, and logistical issues.

It is recommended that each government establishes a working group to review in detail the nature of the current duty, the extent of its implementation, and (to the extent they exist) the efficacy of inspection regimes. This review should consider the need for empirical research to inform its work.

CURRENT LAW AND PRACTICE

3. Within the current law and practice, there are significant concerns surrounding the protection of the right to freedom of religion or belief.

It is recommended that:

(a) Educational authorities issue information clarifying that the right to withdraw from acts

of collective worship/religious observance is applicable to all schools. Standardised guidelines should be issued on appropriate practice for schools with regard to the right to withdraw, and the procedures to accommodate those wishing to exercise this right.

(b) Schools should clearly set out the content and format of acts of collective worship/religious observance through school literature, websites and open days. Schools should have a clear set of guidelines on the use of external speakers, and should explicitly notify parents in advance of any such speakers coming to the school to participate in acts of collective worship and religious observance.

(c) Schools should make parents and pupils aware of the right to withdraw from acts of collective worship and have a set of clear procedures to allow individuals to exercise this right.

(d) Where a pupil expresses a desire to exercise the right to withdraw – and she or he is not already afforded such a right by law – there should be clear procedures for assessing the maturity of the pupil, including appropriate training for teachers and other adults who may carry out the assessment.

(e) Where opt-outs are requested, schools should provide alternative activities that have educational value and are directed towards the non-religious aims of the statutory duty.

(f) Schools should advise parents of the option of the school applying for a disapplication of the collective worship requirement, and have a set of clear procedures to allow this option to be pursued.

4. England Specific Recommendations

(a) It is recommended that there should be a review of Department for Education Circular 1/94, so as to assess its proper status and role in relation to collective worship.

(b) It is recommended that Ofsted should provide more information in their inspection reports about the policies and practices of schools in regard to collective worship.

5. Northern Ireland Specific Recommendations

(a) It is recommended that the Department of Education issues guidance in order to advise teachers and schools in relation to the current duty governing collective worship.

(b) It is recommended that a monitoring mechanism is established to observe practice and ensure human rights standards are upheld.

6. Scotland Specific Recommendations

(a) It is recommended that Education Scotland provide clear guidance as to what constitutes religious observance and where worship is situated within that.

(b) It is recommended, in line with Section 6 of the Standards in Scotland's Schools etc. Act 2000, that children are consulted on the day to day running of the school as set out in the school's Development Plan and that this should include consultation relating to religious observance.

(c) It is recommended that the term 'Religious Observance' be formally changed to 'Time for Reflection' in order to be more inclusive.

7. Wales Specific Recommendations

(a) It is recommended that Circular 10/94 is urgently revised to reflect the contemporary needs and aspirations of the Welsh education system, particularly in light of the recommendations of the Donaldson Review.

(b) It is recommended that the non-legal status of Circular 10/94 is made widely known to schools, SACREs and Estyn.

(c) It is recommended that Estyn reviews its inspection guidance and places an increased emphasis on the 'collective' aspect of the activity. In so doing, it could usefully refer to the guidance document of the Welsh Association of SACREs (WASACRE).

(d) It is recommended that, in reviewing and making any decisions on this area, the Welsh Ministers pay due regard to the rights of children and young people as required by the Rights of Children and Young Persons (Wales) Measure 2011.

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