

## Consultation on the Curriculum and Assessment (Wales) Bill

Evidence submitted to the [Children, Young People and Education Committee](#) for Stage 1 scrutiny of the Curriculum and Assessment (Wales) Bill.

### About you

Organisation: Wales Humanists

## 1. The Bill's general principles

### 1.1 Do you support the principles of the [Curriculum and Assessment \(Wales\) Bill](#)?

Yes

### 1.2 Please outline your reasons for your answer to question 1.1

*(we would be grateful if you could keep your answer to around 1500 words)*

We strongly agree with the underlying principles of the ambitious new Curriculum for Wales which, once implemented, we believe will be the most inclusive curriculum in the UK. In our view, this will particularly be the case with respect to religious education (or Religion, Values, and Ethics as it is set to be renamed). But this advance in inclusivity will be further achieved by provisions which will guarantee all learners aged 3 - 16 access to comprehensive relationships and sexuality education (RSE).

We fully support the four purposes of the curriculum, which display an explicit commitment to equality and human rights that, as is clear from the curriculum guidance that accompanies the Bill, permeates each area of learning and experience (AoLE). We also support the 'what matters' structure within each AoLE and agree with the Government that these statements setting out the fundamental building blocks of curriculum content should be enshrined in legislation.

As noted in the explanatory memorandum, the Bill is designed to ensure that the legislative framework relating to the curriculum adequately facilitates all learners in Wales to 'embody the four purposes' and receive the 'high-quality broad and balanced education' to which they are entitled throughout the course of their statutory education.

This laudable aim would be impossible under the current legal arrangements, which the Government is correct to say are 'no longer fit for purpose'.

Religion, Values, and Ethics:

The inclusion of humanism:

One of the most important improvements the new Bill proposes to make involves clarifying that the newly titled subject Religion, Values, and Ethics must be fully inclusive of non-religious worldviews like humanism. At present, both the subject name and the wording of the law underpinning it refer solely to 'religion' and 'religions', whereas human rights law has established that this should be read as 'religion or belief'.

Here it is important to note that the proposed changes do not involve a substantive change to the law. In fact, the Human Rights Act 1998 (following the European Convention on Human Rights) already dictates that humanism must be treated equally to religions, and the judgment in the only domestic case law on the issue found that a curriculum which systematically excluded the teaching of humanism would fail to meet the legal standard of being 'objective, critical, and pluralistic' (See *R (Fox) v Secretary of State for Education* (2015)).

The Bill's clarification of the requirement to include non-religious perspectives in RVE is made even more pertinent by the fact that, along with the rest of Britain, Wales is becoming increasingly non-religious. The most recent British Social Attitudes Survey suggests that 52% of British and 57% of Welsh adults belong to no religion (see

### **1.3 Do you think there is a need for legislation to deliver what this Bill is trying to achieve?**

*(we would be grateful if you could keep your answer to around 500 words)*

Yes

Religion, Values, and Ethics:

As noted in our response to question 1.2, the key provisions requiring Religion, Values, and Ethics to cover religious and non-religious beliefs equally in the syllabus, and include humanist representatives on ASCs and SACREs do not represent a substantive change to the law. However, owing to the religion-centric language of the current legal framework, humanists have been systematically excluded from participating in SACREs and ASCs, and

humanism has been erroneously left out of the RE curriculum. In order to ensure that this does not happen in future, it is, therefore, vitally important that the wording of the law is clarified to make it completely clear that, in line with the Human Rights Act, non-religious perspectives and those who hold them must be treated equally.

We believe that the ideal state of affairs with respect to the introduction of the new, inclusive RVE curriculum would be for it to be compulsory in all schools irrespective of their religious character. This would ensure that, as per the vision of the Religious Education Council for England and Wales, every learner in Wales would receive 'a personally inspiring and academically rigorous education in religious and non-religious worldviews.'

However, short of that, we support the proposal to require that voluntary aided schools teach RVE according to the agreed syllabus when parents demand it. Legally speaking, the Government's decision to abolish the parental right to withdraw from RVE across all schools, including faith schools, necessitates that the law is amended to ensure that the freedom of religion or belief of families whose beliefs do not cohere with the religion of the school is protected through the offer of such an alternative. For this reason, as set out in the Bill, schools should not be able to refuse this when requested.

This change will represent a marked improvement on the current situation whereby parents who do not share the faith of the school their child attends are compelled to choose between exposing their child to a potentially indoctrinatory faith-based approach to RE or exercising their right to withdraw altogether, risking isolation from peers as well as depriving their child of a vital aspect of their education.

Relationships and sexuality education:

The changes to the law proposed by the Bill are also necessary to ensure that children in Wales have equal access to the comprehensive relationships and sex education to which they are entitled. This is particularly the case with respect to the abolition of the parental right to withdraw which, at present, systematically denies some of the most vulnerable children and young people their right to receive impartial information that, in some cases, could be life-saving. It is alarming to think that, under the present legislation, an abusive parent may simply exercise the right to withdraw a child from RSE and, by so doing, prevent them from receiving any safeguarding education.

It is also of great importance that the content of RSE is made statutory through the RSE Code. To see why this is the case, one need only look at how the statutory guidance in England has been interpreted. There, provisions saying RSE must take the religious background of pupils into account and that this might mean the provision of a

'differentiated curriculum' have been weaponised by those opposing the subject. This includes the well-known cases of protesters outside schools in Birmingham claiming that Muslim children should not be taught about LGBT people, but also religious schools using these faith-based 'carve-outs' to attempt to avoid their duty to teach the subject altogether (see ).

RSE will only be effective if the content, not simply the broad subject area, is enshrined in legislation, guaranteeing a broad and balanced curriculum for all pupils regardless of religion or belief.

## **2. The Bill's implementation**

### **2.1 Do you have any comments about any potential barriers to implementing the Bill? If no, go to question 3.1**

*(we would be grateful if you could keep your answer to around 500 words)*

NB: We do not believe that the Bill takes account of the barriers highlighted in this response. For this reason, we have used this question to suggest solutions to these issues which are split between box 2.1 and box 2.2.

The proposal to replace the right to withdraw from RVE with a right to demand the subject in line with the locally agreed syllabus in voluntary aided faith schools marks a significant step towards giving most learners in Wales access to fully inclusive lessons about religions and humanism. There are nevertheless some ways in which the proposals should be improved and/or further clarified if they are to achieve this:

Process for demanding agreed syllabus RVE:

Since the right to demand RVE in accordance with the agreed syllabus will serve as a vital protection for the freedom of religion or belief for families whose children attend voluntary aided schools, the Welsh Government must establish a process to ensure that parents are regularly informed of their rights in this regard (e.g. at the start of every academic year or at the point any new pupil joins the school). Ideally, VA schools should be required to explicitly ask parents to select the type of R(V)E they prefer, rather than simply defaulting to faith-based RE unless told otherwise. This will help to ensure that all parents make the choice that they think is right for their children, and would prevent children feeling singled out when their parents make this choice. It is hard to see what grounds faith providers would have for legitimately objecting to it, given that it is only allowing for what parents

and pupils want. Rather, faith schools should be happy to ensure regular and open communication with parents confirming their and their children's rights.

Failing this, VA schools should at the very least be required to make it known to all parents that another option is available, and reference to the right to demand agreed syllabus RVE should feature in every school's published policy for the subject.

Right to demand agreed syllabus RVE for older pupils:

From Year 10 onwards, pupils themselves should be granted the power to request inclusive RVE in-line with the locally agreed syllabus. As already noted with respect to voluntary controlled schools, this would better respect the rights of children and young people and fits more closely with the requirement for policy decisions to take proper account of the UNCRC than either the current or proposed arrangements. What's more, given that children are currently expected to exercise a degree of choice over what they will be taught in years 10 and 11 when they select their GCSE options at the end of year 9, there is a clear point at which it would be reasonable to begin to offer this alternative.

## **2.2 Do you think the Bill takes account of these potential barriers?**

*(we would be grateful if you could keep your answer to around 500 words)*

NB: We do not believe that the Bill takes account of the barriers highlighted in this response. For this reason, we have used this question to suggest solutions to these issues which are split between box 2.1 and box 2.2.

Teacher training, recruitment, and dismissal

Since RVE that follows the agreed syllabus will be a significant change to teachers in voluntary aided schools, it is vital that they are properly trained to understand the key differences between the faith-based approach and that taken when teaching the agreed syllabus. Any failure to take these differences seriously could lead to breaches of the right to freedom of religion or belief of learners and their families as outlined above. For this reason, Welsh Government should, at the very least, produce additional guidance outlining these differences, the basic features of non-confessional RVE, and the legal ramifications of failing to meet the standard of being sufficiently objective, critical, and pluralistic, alongside a clear explanation of what this will mean in practice.

At present, VA faith schools are legally permitted to give preference 'in connection with the appointment, remuneration or promotion of teachers... whose religious opinions are in accordance with the tenets of the religion'. They can do this for all teachers.

Faith is often seen as a particularly important requirement for RE teachers. However, when the right to demand agreed syllabus RVE is introduced, it will be necessary for at least some of the teachers in every VA faith school to be able to teach using the more objective approach adopted by the agreed syllabus. There should, therefore, be a requirement for every school to retain a suitable number of teachers who are willing and able to teach in this way. This could mirror the current requirement for reserved teachers in VC schools. Although, if the requirement for VC faith schools to teach faith-based RVE on demand were to be removed, as it legitimately could be, then it would be appropriate to remove the provision in that context and only provide for a proportion of reserved agreed syllabus teachers in VA schools.

The current law allows VA faith schools to terminate the employment of a teacher if 'any conduct on his part... [is deemed] incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination' of the school. Because of this, it will be necessary for the new law to reflect the fact that such schools will need to employ teachers who teach RVE which is not faith-based and to clarify that teaching RVE in an objective manner does not constitute a violation of this provision. Otherwise there is a serious risk that some VA schools could work against the intent of the law simply by refusing to employ suitable teachers for teaching agreed syllabus RVE. This is a particular concern given the recorded objections of Catholic headteachers to this requirement (). As they are presently set out in the Bill, the arrangements represent a clear conflict of interest, between what the church wants and what the law allows, that is open to abuse.

#### Inspection and monitoring

Currently, RE in VA schools is inspected by a denominational body chosen by the governors. Since those responsible for inspecting faith-based RE cannot be guaranteed to have the requisite skills or expertise for inspecting inclusive RVE, and may misunderstand the requirement to provide RVE which is objective, critical, and pluralistic, we think it is crucial that, where the provision is in operation, it is inspected by Estyn. When inspecting VA schools, Estyn should also be expected to consider the extent to which schools are adequately and transparently making parents and, if our suggestion is adopted, older children aware of this option (e.g. through the explicit opt-in process highlighted above), and making sure there is appropriate staff provision for inclusive RVE.

To ensure issues relating to effective provision of agreed syllabus RVE in VA faith (and indeed other) schools are tackled at an early stage, the Welsh Government should consider setting up an early intervention service that is able to offer advice and guidance to parents on these matters, as well as inform schools when and how their practice is likely to be unlawful. There may also be a role for SACREs in providing guidance, as well as helping to monitor and address any issues that arise with respect to the provision of adequately pluralistic RVE. However, to avoid the need for legal challenges in this area the Government will need to establish a process that seeks to compel (rather than merely advise) schools that fail to adequately respect the legal rights of their pupils and their families.

These additional points represent important safeguards on the provision of agreed syllabus RVE in VA faith schools. As we know these schools would likely prefer for all pupils to participate in a faith-based version of the subject that does not include non-religious perspectives on an equal footing with religions (the Catholic Education Service have claimed that the inclusion of non-religious worldviews in the subject will mean it is not as intellectually rigorous and constitutes 'dumbing down' (see )), it is imperative that this potential conflict of interest is independently monitored; otherwise, it will hamper the right of children and their families to access lessons that are adequately objective, critical, and pluralistic.

### **3. Unintended consequences**

#### **3.1 Do you think there are there any unintended consequences arising from the Bill? If no, go to question 4.1**

(we would be grateful if you could keep your answer to around 500 words)

Collective worship:

Despite the UN Committee's recommendation that the requirement be repealed, schools in Wales are still legally mandated to carry out a daily act of collective worship that is 'wholly or mainly of a broadly Christian character'.

Although schools can opt to have worship that aligns with an alternative faith, they are not permitted to opt out of delivering worship altogether. Parents have a legal right to withdraw their children from collective worship, and, since 2006, sixth-form pupils have been permitted to withdraw themselves from these sessions. However, withdrawal can be a difficult process that isolates children from their classmates.

Children who have been removed from worship are rarely given a meaningful alternative of equal educational value during the time their peers are attending worship. Indeed, in 2019 two non-religious parents, xxx and xxxxxxx xxxxxx (supported by Humanists UK), took a legal challenge against their children's school in England because it refused to provide just such an alternative ().

When the Trust that runs the school eventually backed down as the xxxxxxxx won permission to have their case heard at the High Court, the school agreed to provide an inclusive alternative to the xxxxxx children and any other withdrawn children whose parents wished them to receive it.

As the law is identical in England and Wales, this logically ought to mean that similar arrangements are possible at other schools in both countries. However, most parents who would like to see a meaningful alternative to collective worship in their child's school won't be in a position to mount time-consuming legal proceedings. What's more, such action may risk alienating the family from the school. For this reason, this is clearly not the most desirable means by which to ensure that children get the kind of non-discriminatory provision to which they are entitled under Article 2 of the UNCRC. Instead, this aim would be far better met by a change to the law.

Unfortunately, however, the Welsh Government has said that it won't take action on the issue of collective worship in the current Senedd term. This is despite the fact that 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.

Seemingly, the decision not to take action on the issue was motivated by the view that the Government must prioritise the changes to the curriculum over ostensibly less important changes to collective worship. However, here it is worth noting that this separation of the curriculum from what happens in other aspects of the school day is largely artificial. For pupils, worship delivered by teachers in a school environment is very likely to be experienced in a similar way to a lesson, making the fact this form of spiritual, moral, social, and cultural development is inconsistent with the proposed changes in the wider curriculum all the more difficult to defend.



Creationism and pseudoscience:

We understand that the Curriculum for Wales is predicated on the idea that teachers should be granted the flexibility to design the curriculum they provide around the needs of their pupils. However, in order to ensure that learners get full access to a broad and balanced curriculum, it is nevertheless necessary to stipulate a range of non-negotiable, basic content that all learners must receive, as well as an outline of what progression looks like in each curriculum area. It is for this reason that we strongly support the decision to establish statutory codes for the what matters statements and curriculum progression.

In our view, one area where this is particularly important is the teaching of science. When the new curriculum was published, we voiced concern that the Science and Technology AoLE did not appear to require the teaching of evolution in primary schools and, owing to a lack of any explicit prohibition on the teaching of pseudoscience, could allow the teaching of theories such as intelligent design or creationism to be taught as evidence-based. We found this especially worrying given that the move from discrete subjects to 'Areas of Learning and Experience' seems likely to encourage cross-disciplinary teaching that could include the merging of lessons on religion with science.

The proposal for a What Matters Code that will make the what matters statements – including a statement on living things that refers to the impact of natural selection on diversity of life – statutory has somewhat assuaged our concerns in this regard. Nevertheless, the fact that evolution is not explicitly mentioned in the progression steps of the curriculum until progression step 5 (which should ordinarily coincide with the final stages of secondary school) still gives us pause, as does the failure to expressly rule out the teaching pseudoscience, which could easily corrupt teaching elsewhere in the curriculum, particularly RSE.

Here it is worth mentioning that, in England, academies and free schools are prohibited from teaching unevidenced theories such as creationism as science by a clause in their funding agreements preventing them from allowing 'any view or theory to be taught as evidence-based if it is contrary to established scientific or historical evidence and explanations.' This clause applies to all subjects. The UK Government has also clarified that in its view, the duty on all state schools to teach a 'broad curriculum' also means that this requirement is in force in other types of school. In our view, the Bill could easily include a similar declaration and thus close down any opportunity for unscrupulous providers to use

curriculum flexibility as a means by which to introduce unsupported theories into the classroom.

## 4. Financial implications

**4.1 Do you have any comments on the financial implications of the Bill (as set out in Part 2 of the [Explanatory Memorandum](#))? If no, go to question 5.1**

*(we would be grateful if you could keep your answer to around 500 words)*

No comment, falls outside of our policy remit.

## 5. Powers to make subordinate legislation

**5.1 Do you have any comments on the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the [Explanatory Memorandum](#)). If no, go to question 6.1.**

*(we would be grateful if you could keep your answer to around 500 words)*

In our view, it is appropriate that Welsh Ministers are able to make changes to areas of the curriculum such as the What Matters Code and the RSE Code should, in future, the current provisions need adjusting because they are unfit for purpose. Nevertheless, it is vital that such changes are subject to appropriate oversight from the Senedd and that the codes are devised with a view to the majority of any later changes to the curriculum occurring at the level of statutory guidance.

## 6. Other considerations

**6.1 Do you have any other points you wish to raise about this Bill?**

*(we would be grateful if you could keep your answer to around 1000 words)*

Summary of key points:

Religion, Values, and Ethics:

It is vital that religion, values, and ethics (RVE) should encompass both religious and non-religious beliefs that are philosophical convictions (in line with the European Convention on Human Rights) as described in the consultation document;

Non religious worldviews form an integral part of any objective, pluralistic and critical curriculum and any claim that the 'introduction' of non-religious worldviews into religious education will serve to 'dilute' or 'dumb down' the subject, ignores the fact that:

- a) the law already stipulates that this should be the case and the changes only seek to clarify this fact;
- b) humanism and humanist beliefs are well-represented in Wales and thus worthy of recognition through the curriculum;
- c) humanism is a cogent, well-developed worldview with a significant and rigorous body of literature underpinning it that is suitable for teaching in schools.

As the only non-religious worldview that meets this standard and is common in Wales, in effect the proposal to include non-religious worldviews that are philosophical convictions means the inclusion of humanism alongside religions;

We largely support the proposals outlined in the consultation document, particularly the parental right to demand RVE according to the agreed syllabus in VA but suggest some key improvements. These are as follows:

- a) Grant older pupils in faith schools (year 10 and 11) the power to opt-in to RVE taught according to the agreed syllabus to fully respect their rights to freedom of religion or belief;
- b) Ensure that inclusive RVE taught according to the locally agreed syllabus is inspected by Estyn rather than denominational bodies;
- c) Remove the right to request denominational R(V)E in VC schools;
- d) Remove the requirement for up to a fifth of teachers in VC schools to be appointed on the basis of their 'fitness and competence' to teach faith-based RE;

e) Ensure that teachers in all schools, but particularly those in schools with a religious character, understand the difference between objective, critical, objective RVE and that taught from a faith perspective, as well as the legal ramifications of not taking this difference seriously. Welsh Government should consider publishing guidance on this issue;

f) Require that a suitable number of 'reserved' teachers in VA schools are trained to teach pluralistic RVE, and remove the legal provision that allows such teachers to be selected, remunerated, promoted, or dismissed according to faith;

g) Require that VA schools with a faith character provide parents with an explicit choice between faith-based and agreed syllabus RVE, or at the very least, fully inform parents (and older children) of their right to demand the subject in accordance with the agreed syllabus. This should be done through school policy documents, the school website, and parents should be provided with regular reminders every academic year/ when new pupils join the school;

h) Estyn to inspect requirements (e), (f) and (g) as part of their inspection regime in VA schools.

Collective worship:

Owing to the fact that the imposition of compulsory Christian worship undermines the rationale for the new curriculum, steps should be taken to replace this legal requirement with a requirement to hold inclusive assemblies designed to foster the spiritual, moral, social, and cultural development of pupils from all backgrounds.

RSE:

As set out in the Bill, the parental right to withdraw children from RSE should be removed. The proposed RSE Code must make statutory the basic content of the subject for all pupils in all schools irrespective of background or belief, and should be fully LGBT inclusive.

Science, evolution and the prevention of pseudoscience:

The content of the What Matters Statements should be made statutory by the What Matters Code. However, the Government should also explicitly prohibit the teaching of pseudoscientific theories such as creationism or intelligent design as evidence-based or scientific.

