Guidance on the right of withdrawal from religious education and/or collective worship

References to schools in this Guidance includes references to academies, unless stated otherwise.

What the law says

The requirement to provide Religious Education

The local authority, governing body and head teacher of voluntary aided (VA) schools in England and Wales must ensure that religious education is provided as part of the school's basic curriculum[1]. In VA schools with a religious character, such provision must be in accordance with the provisions of the school's trust deed[2] and instrument of government. In Catholic schools this is therefore *"in accordance with the teachings, doctrines, discipline and general and particular norms of the Catholic Church"*[3].

Academies in England are required by their funding agreement and Articles of Association to comply with similar requirements.[4]

The requirement to provide Collective Worship

Pupils in VA schools in England and Wales are required by law to take part in an act of collective worship on each school day[5] which must be in accordance with the provisions of the school's trust deed and instrument of government. In Catholic schools this is therefore *"in accordance with the rites, practices, disciplines and liturgical norms of the Catholic Church".*[6]

Academies in England are required by their funding agreement and Articles of Association to comply with similar requirements.[7]

[1] School Standards and Framework Act 1998, s.69(1).
[2] The term 'trust deed' is defined widely: see section 579(1) of the Education Act 1996.
[3] Schools Standards and Framework Act 1998, Schedule 19, para.4; Instrument of Government, clause 2.
[4] The Mainstream Academy and Free School: Supplemental Funding Agreement (April 2016); Model Articles for Catholic Academies (February 2015).
[5] School Standards and Framework Act 1998, s.70(1).
[6] School Standards and Framework Act 1998, Schedule 20; Instrument of Government, clause 2.
[7] The Mainstream Academy and Free School: Supplemental Funding Agreement (April 2016); Model Articles for Catholic Academies (February 2015).

Whilst it is very rare that children in Catholic schools do not fully participate in the religious education curriculum and collective worship of the school[8], it is possible that the school receives a request that a pupil:

(i) be withdrawn from religious education and/or collective worship, or
(ii) receive religious education which is different to that taught at the school.

(i) The right of withdrawal from Religious Education and/or Collective Worship

Parents of pupils in VA schools and voluntary academies are permitted, by law, to request that their child is withdrawn from receiving all or part of religious education[9] and/or collective worship[10] given at the school and any such request shall stand until such time that the parent's request is withdrawn.

Sixth form pupils may, on their own behalf, wholly or partly withdraw from attendance at collective worship at the school[11].

What happens to the pupil if he/she is withdrawn from Religious Education and/or Collective Worship?

If pupils are withdrawn from religious education and/or collective worship, schools have a duty to supervise them, though not to provide additional teaching or to incur extra costs.

Depending on school resources, the withdrawn pupil may be moved to another venue within the school, for example, the library, or, perhaps in a very small school with limited resources, the pupil may remain in the RE classroom but will not participate in the RE lesson. If the pupil is moved to another venue within the school they must be supervised.

If a pupil is withdrawn and alternative arrangements cannot be made for the type of RE the parents' desire (see below), for example, due to resources/timetabling etc, it is the parents' responsibility to provide materials for their child which have clear outcomes and are connected to the faith/philosophy/world view of the parents.

A school is able to refuse a request that the pupil study other aspects of the National Curriculum during times they have been withdrawn from RE and/or collective worship as time is already given over to these subjects within the school's basic curriculum. It is important to bear in mind that the parental right to withdraw a child from RE was intended by Parliament to be a 'conscience clause' and not to be used as a general opt-out clause.

Care should be taken not to confuse a request for absence due to religious observance with a request to withdraw a child from RE and/or collective worship.

[8] The CES Census Digest 2016 records that 0.02% of pupils in Catholic schools and academies in England were withdrawn from collective worship in 2016.
[9] S.71(1) School Standards and Framework Act 1998
[10] S.71(1A) School Standards and Framework Act 1998
[11] S.71(1B) School Standards and Framework Act 1998

Case study 1

Jessica attends St Mary's Catholic Secondary School. Her parents, who are Jehovah's Witnesses, have expressed their wish that she is withdrawn from religious education. They have asked that, whilst her peers are attending their RE lessons, she undertake work/study which is set by them and which will seek to further Jessica's knowledge and understanding of their Jehovah's Witness beliefs and values.

The school is able to accommodate Jessica in the school library during RE lessons.

The school is responsible for supervising Jessica during this time and for monitoring that she is completing the work set by her parents, but her parents are responsible for assessing the work undertaken.

Case study 2

Liam attends Christ the King Academy where his parents have requested that he is withdrawn from RE as they do not want him to learn about Islam.

The school is unable to supervise Liam outside of the RE classroom due to lack of available and suitably qualified staff. The school advises Liam's parents that he may be withdrawn but that he must remain in the RE classroom but will only be undertaking work set by them. His parents are unhappy with this suggestion.

As the school is not required to incur any cost in accommodating a request to withdraw, the school suggests a potential solution whereby Liam's parents', or a person designated by them, attend the school site during RE lessons and supervise Liam in the school hall which is unused at that time.

(ii) Off-site provision of religious education of a kind not provided by the school

What the law says

Where a pupil has been withdrawn from religious education and their parent(s) wants them to receive religious education of a kind which is not provided at the school during the periods of withdrawal, the parent may make alternative arrangements for the pupil to receive religious education of the kind they desire, to take place off the school's premises[12]. Such an arrangement is only permitted where the local authority is satisfied that the alternative arrangements for religious education off the school site will not interfere with their attendance at school. Therefore, absence for this purpose is only permitted at the beginning or end of a school session[13].

[12] S.71(3) School Standards and Framework Act 1998

[13] S.71(4) School Standards and Framework Act 1998. 'School session' means each of the two sessions that make up the school day which is divided by a break. The length of the session, break and school day is determined by the governing body/board of directors of the academy trust company. Therefore, the beginning or end of a school session does not solely relate to the beginning and end of the school day but may also be the end of the session before the break or the beginning of the session after the break.

Case Study 3

A number of Latter Day Saints pupils attend St John's Catholic Academy. In the local town there is a Church of Jesus Christ of Latter Day Saints. The parents of these pupils request that their children be allowed to go to that Church for RE. The Church has agreed to provide weekly lessons for one hour on Tuesdays at 10am. The school declines the parents request because the time of the lessons would seriously disrupt the attendance of the pupils at the school. The Church agrees, on request by the parents, to teach RE at a more convenient time, being the last lesson on a Friday afternoon. The school agrees to the request as this is at the end of a session.

If a child is receiving RE and/or collective worship off-site, then it is the parents' responsibility to supervise their child once they have left the school site. Depending on the particular circumstances it may be necessary for the school to continue to ensure that all safeguarding measures are in place which may include a risk assessment covering supervision, vehicles, DBS, route and timings.

(iii) Request for Religious Education in accordance with the Local Authority's Agreed Syllabus

What the law says

A parent may request that their child receives religious education in accordance with the local authority's agreed syllabus[14]. Where that child cannot, with reasonable convenience, attend a school at which the local authority's syllabus is in use, the governing body must make arrangements[15] for religious education in accordance with the local authority's syllabus to be given to those pupils at the school[16].

Case study 4

Holy Family Catholic Primary School is a small, village primary school set in a very rural location. Clara's parents have requested that she receive RE in line with the local authority's agreed syllabus. The school refuses the request as it does not have the resources, such as separate teaching space and any available teacher to provide RE on a one-to-one basis to a single pupil.

[14] The RE syllabus adopted by the local authority and taught in schools in the local authority's area, not being schools which are entitled to set their own RE syllabus e.g. VA schools and voluntary academies. Usually the local authority's agreed syllabus requires schools to teach the religious traditions in Great Britain which are, in the main Christian, while taking account of the teaching and practices of the other principal religions represented in Great Britain.

[15] This duty to make arrangements is subject to the fact that the governing body may refuse where it is satisfied that, because of any special circumstances, it would be unreasonable to make the arrangements. In the event that the governing body is unwilling to make the arrangements referred to, they should be made by the local authority in its stead.

[16] Schedule 19 School Standards and Framework Act 1998

Case Study 5

Our Lady Catholic High School, a large secondary school, receives a request from Lily's mother that she no longer receive Catholic RE taught by the school but, instead, be taught RE in accordance with the local authority's agreed syllabus. As the school is a large school with significant financial resources, and several RE teachers who are familiar with the agreed syllabus and have enough free time to accommodate the request without disruption to their timetables, the school is able to accommodate the request.

Case Study 6

Peter attends Bishop Challoner secondary school which is a very large inner-City secondary school. His father has requested that he be taught RE in accordance with the local authority's agreed syllabus. The school declines the request on the basis of a lack of available RE teachers. All RE teachers at the school have extremely full timetables teaching Catholic RE and do not have the capacity to teach a syllabus with which they are not familiar on a one-to-one basis.

In all cases, the school would be advised to adopt a procedure that allows for effective communication with parents and pupils where a request to withdraw is being considered or made (see 'Our Advice' below).

Sources of advice and guidance

There are three main sources of advice and guidance.

The first is **DFE Circular 1/94**[17] issued on 31st January 1994 which relates to schools in England.

The second is **Welsh Government Circular 10/94**[18] issued in September 1994.

These documents, whilst over twenty years old, remain extant and contain useful examples of questions the school should ask parents to ascertain the reasons for a request to withdraw and what, if anything, can be done to allay any concerns/fears that the parent may have.

The third source of advice and guidance is the Department for Children, Schools and Families (predecessor to the DfE) **'Religious Education in English schools: Non-Statutory Guidance 2010'**[19]. This guidance sets out the responsibilities of governors and head teachers and includes a checklist for managing the right of withdrawal as well as case studies.

[17] http://media.education.gov.uk/assets/files/pdf/r/non%20statutory%20guidance%20on%20collective%20worship.pdf
[18] http://www.wasacre.org.uk/publications/wag/E-circular10-94.pdf
[19] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/190260/DCSF-00114-2010.pdf

Practical Implications

The right to withdraw is specifically linked to religious education and/or collective worship so that care will need to be taken where the school teaches religious education in an integrated form along with other National Curriculum subjects, from which there is no right of withdrawal.

The 2010 guidance provides that "the right of withdrawal does not extend to other areas of the curriculum when, as may happen on occasion, spontaneous questions on religious matters are raised by pupils or there are issues related to religion that arise in other subjects such as history or citizenship". It also provides that "where religious education is integrated in the curriculum, the school needs to discuss the arrangements with the parents or carers to explore how the child's withdrawal can be best accommodated".

In a Catholic school the expectation is that religious education and worship permeates throughout the life of the school and the whole school curriculum. Consequently, the level of integration of religious education and collective worship into the school curriculum is likely to be far greater than in community schools.

What the Catholic Church says about the teaching of Religious Education

It is important to remember that the RE curriculum in Catholic schools, which is set by the Bishops of England and Wales, always requires the teaching of other religions. Catholic schools recognise that parents have the right to seek an education which is in conformity with their own religious commitments and, as far as Catholic education is concerned, these commitments include that of educating young people about other religions as well as about Catholicism. For this reason Catholic schools should always seek to understand the nature of a request to withdraw so that any misunderstandings can be resolved.

Learning about other religions is required both by the Bishops' Conference of England and Wales, as outlined in the Religious Education Curriculum Directory 2012, and by the magisterium of the Catholic Church.

The Catholic Church views the teaching of other religions as very important for several reasons:

(i) Learning about the religion and cultures of those who do not share the Catholic faith is one of the ways in which Catholic schools embody the call to love one's neighbour. As the Church says, "The love for all men and women is necessarily also a love for their culture. Catholic schools are, by their very vocation, intercultural."[20]

(ii) It is required by the Bishops, who state that the Catholic nature of our schools entail "a willingness… to try to understand better the religion of one's neighbours, and to experience something of their religious life and culture."[21]

(iii) Many of the children in Catholic schools are practising members of other faiths and so Catholic schools need to be places of hospitality for these children. It is an act of respect and courtesy that a Catholic school's RE curriculum helps them to reflect on the nature of their own religious

[20] Educating to Intercultural Dialogue in Catholic Schools, Living in Harmony for a Civilization of Love, Vatican City 2013, para 61
[21] Meeting God in Friend & Stranger, Fostering respect and mutual understanding between the religions, a teaching document of the Catholic Bishops' para 3

identity. As the Church says, "All children and young people [including those of other faiths in our Catholic schools] must have the same possibilities for arriving at the knowledge of their own religion as well as of elements that characterise other religions."[22]

(iv) It prepares the pupils in our Catholic schools for life in modern Britain, giving them an understanding of the beliefs of others. This in turn will improve social cohesion and contribute to the common good by increasing mutual respect between those of different religions, thereby contributing to the promotion of fundamental British Values in schools.

Our advice

In summary, parents have the absolute right to withdraw their children, in whole or in part, from receiving religious education and they also, as well as sixth-form pupils on their own behalf, have the right to withdraw their children, in whole or in part, from collective worship. There is no requirement to provide reasons, written or otherwise, for making such a request and the request stands until such time that it is explicitly withdrawn by the parent/sixth-form pupil.

However, our advice is that, where a request to withdraw is received by a school, the school should speak with the parent to try to understand the basis for the request. To avoid misunderstanding the school should establish the religious issues about which the parent objects to their child being taught (all the while respecting their right to withdraw their child without reasons). Once known, the school should discuss with the parent the practical implications of withdrawal and the circumstances in which it may be reasonable to accommodate their wishes. Practical examples of how a school may reassure a concerned parent considering withdrawing their child may include inviting the parent to observe a RE lesson, time of worship or visiting speaker.

In order to fulfil the Church's mission in teaching religious education, including religions other than Catholicism, the ultimate aim in any discussion to reassure the parent is that they either reconsider making a request to withdraw their child from religious education and/or collective worship, or that they revoke a request which has already been made so that the pupil is able to continue receiving a balanced education which takes into account the major World religions, as well as the Catholic religion of the school.

In a case where the parent still wishes their child to be withdrawn the school must then seek to ensure that there is a clear understanding between the school and the parent about the types of activities from which the child will be withdrawn and those which they will not (because, for example, they are National Curriculum subjects), the type of work the pupil can undertake whilst withdrawn as well as who is responsible for monitoring and assessing how the work has been carried out.

[22] See footnote 15, para 18

Appendix

You will find below the relevant excerpts of the law as referred to in this Guidance Note.

VOLUNTARY AIDED SCHOOLS IN ENGLAND AND WALES

Requirement to provide Religious Education

Section 69(1) of the **School Standards and Framework Act 1998** (SSFA) provides:

> *'Subject to section 71, in relation to any community, foundation or voluntary school –*
>
> *(a) the local authority and the governing body shall exercise their functions with a view to securing, and*
> *(b) the head teacher shall secure,*
>
> *that religious education is given in accordance with the provision for such education included in the school's basic curriculum by virtue of section 80(1)(a) or 101(1)(a) of the Education Act 2002'.*

Schedule 19 of the SSFA provides, at paragraph 4 which relates to voluntary aided schools with a religious character:

> *'The required provision for religious education in the case of pupils at the school is provision for the religious education –*
>
> *(a) in accordance with any provisions of the **trust deed** relating to the school, or*
> *(b) where provision for that purpose is not made by such a deed, in accordance with the tenets of the religion or religious denomination specified in relation to the school under section 69(4)…'*

Requirement to provide Collective Worship

Section 70(1) of the SSFA provides:

> *'Subject to section 71, each pupil in attendance at a community, foundation or voluntary school shall on each school day take part in an act of collective worship'.*

Schedule 20 of the SSFA provides, at paragraph 5:

> *'In the case of…a voluntary school, the required collective worship shall be –*
>
> *(a) in accordance with any provisions of the **trust deed** relating to the school, or*
> *(b) where –*
> *(i) the provision for that purpose is not made by such deed, and*
> *(ii) the school has a religious character,*
>
> *in accordance with the tenets and practices of the religion or religious denomination specified in relation to the school under section 69(4).'*

Education Act 1996, s.579(1) provides a wide definition of the term 'trust deed' in education law:

"trust deed" *includes any instrument (other than an instrument of government) regulating the constitution of the school's governing body or the maintenance, management or conduct of the school*

Section 21(4) of the **Education Act 2002** obliges governing bodies to comply with their Instrument of Government. The **CES Model Instrument of Government for Catholic Schools** provides:

2 The School was founded by and is part of the Catholic Church. The School is to be conducted as a Catholic School in accordance with ***Canon Law and the teachings of the Catholic Church****, and in accordance with the* ***Trust Deed*** *of the [name of Diocese or Order] and in particular:*

(a) ***religious education*** *is to be in accordance with the* ***teachings, doctrines, discipline and general and particular norms of the Catholic Church****;*

(b) ***religious worship*** *is to be in accordance with the* ***rites, practices, discipline and liturgical norms of the Catholic Church***

Withdrawal from Religious Education and/or Collective Worship

Section 71 of the SSFA sets out the exceptions to the requirements above.

Section 71 (1) provides:

'If the parent of a pupil at a community, foundation or voluntary school requests that he may be wholly or partly excused from receiving religious education given at the school in accordance with the school's basic curriculum[23], the pupil shall be so excused until the request is withdrawn'.

Section 71(1A) provides:

'If the parent of any pupil at a community, foundation or voluntary school other than a sixth-form pupil requests that he may be wholly or partly excused from attendance at religious worship at the school, the pupil shall be so excused until the request is withdrawn'.

Section 71(1B) provides:

'If a sixth-form pupil[24] requests that he may be wholly or partly excused from attendance at religious worship at a community, foundation or voluntary school, the pupil shall be so excused'.

Off-site provision of religious education of a kind not provided by the school

Section 71 (3) provides:

'Where in accordance with subsection (1) or (1A) a pupil has been ***wholly or partly*** *excused from receiving* ***religious education or from attendance at religious worship*** *and the local authority are satisfied -*

[23] 'Religious education given at the school in accordance with the school's basic curriculum' is defined as such education given in accordance with the provisions of the Education Act 2002 in relation to the basic curriculum for every maintained school in England (section 80) and every maintained school in Wales (section 101).

[24] 'Sixth form pupil' means any pupil who has ceased to be of compulsory school age and is receiving education suitable to the requirements of pupils over compulsory school age (section 71(8) SSFA).

(c) that the parent of the pupil desires him to receive religious education of a kind which is not provided in the school during the periods of time during which he is so excused,
(d) that the pupil cannot with reasonable convenience be sent to another community, foundation or voluntary school where religious education of the kind desired by the parent is provided, and
(e) that arrangements have been made for him to receive religious education of that kind during school hours elsewhere,

the pupil may be withdrawn from the school during such periods of time as are reasonably necessary for the purpose of enabling him to receive religious education in accordance with the arrangements'.

Section 71 (4) limits this so that:

> *'A pupil may not be withdrawn from school under subsection (3) unless the local authority are satisfied that the arrangements there mentioned are such as will not interfere with the attendance of the pupil at school on any day except at the beginning or end of a school session (or, if there is only one, the school session) on that day'.*

Request for provision of religious education in accordance with the local authority's agreed syllabus

Schedule 19, paragraph 4 also sets out the steps the governing body must take where a parent desires their child to receive religious education in accordance with the local authority's syllabus, as opposed to the religious education syllabus of the school designated with a religious character.

> *'(3) Where the parents of any pupils at the school-*
>
> *(a) desire them to receive religious education in accordance with any agreed syllabus adopted by the local authority, and*
> *(b) cannot with reasonable convenience cause those pupils to attend a school at which that syllabus is in use,*
>
> *the governing body shall (unless they are satisfied that because of any special circumstances it would be unreasonable to do so) make arrangements for religious education in accordance with that syllabus to be given to those pupils in the school.*
>
> *(4) Religious education under any such arrangements shall be given during the times set apart for the giving of religious education in the school in accordance with the provision for that purpose included in the school's basic curriculum…*
>
> *(5) Any arrangements under sub-paragraph (3) shall be made by the governing body, unless the local authority are satisfied that the governing body are unwilling to make them, in which case they shall be made by the authority.*
>
> *(6) Subject to sub-paragraph (3), the religious education given to pupils at the school shall be under the control of the governing body'.*

ACADEMIES IN ENGLAND

The requirements to provide RE and collective worship apply, in similar terms, to academies by virtue of their funding agreement with the Secretary of State, and their Articles of Association.

DfE Model Funding Agreement, May 2016 (numbering as for single academies, with numbering for multi-academy trust companies in square brackets):

> *2.48. [2.U] The Academy Trust must provide for the teaching of **religious education** and a daily act of **collective worship** at the Academy.*
>
> *2.49. [2.V] The Academy Trust **must comply with section 71(1)-(6) and (8) of the School Standards and Framework Act 1998** as if the Academy were a community, foundation or voluntary school, and as if references to "religious education" and "religious worship" in that section were references to the religious education and religious worship provided by the Academy in accordance with clause 2.50 [2.W].*
>
> *2.50. [2.W] Subject to clause 2.49 [2.V], where the academy is designated with a religious character (in accordance with section 124B of the School Standards and Framework Act 1998 or further to section 6(8) of the Academies Act 2010):*
>
> > *a) provision must be made for religious education to be given to all pupils at the Academy **in accordance with the tenets of the Academy's specified religion or religious denomination**. This is subject to **paragraph 4 of Schedule 19** to the School Standards and Framework Act 1998, which applies as if the Academy were a voluntary aided school with a religious character;*
> >
> > *b) the Academy Trust must comply with section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if the Academy were a foundation school with a religious character or a voluntary school, and as if references to "the required collective worship" were references to collective worship in accordance with the tenets and practices of the Academy's specified religion or religious denomination;*

Under Company Law, academy trust companies are obliged to conduct themselves in accordance with their Articles of Association. The **Model Articles of Association for Catholic Academies** (February 2015) provide:

> *kk. "Trust Deed" includes any instrument (other than the Memorandum and Articles of Association) regulating the constitution of the Company or the maintenance, management or conduct of the [Academy] [Academies], and **includes Canon Law and any diocesan directives**;*
>
> *5A.b For any Academy or Academies established under Article 4(a)(i):*
>
> > *(i) **Religious education** is to be in accordance with the **teachings, doctrines, discipline and general and particular norms of the Catholic Church**.*
> >
> > *(ii) **Religious worship** is to be in accordance with the **rites, practices, discipline and liturgical norms of the Catholic Church**.*