

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

October 2024

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Background

1. This consultation seeks views on proposed changes to section 9 of the Education (Scotland) Act 1980 (“the 1980 Act”). The proposed changes will support the alignment of legislation with the United Nations Convention on the Rights of the Child by requiring that children and young people’s views are taken into account in relation to their participation in religious observance (“RO”) and religious and moral education (“RME”) as a curricular area, also called religious education in denominational schools (“RE”), as part of their attendance at a public or grant-aided school.
2. RO, sometimes also called ‘collective worship’ or ‘time for reflection’, plays an important role in promoting the spiritual development of pupils, as well as expressing and celebrating the shared values of the school community. This might be woven throughout the school day, or take the form of specific assemblies, and sometimes includes parents, carers and community representatives from faith and non-faith groups, as well as pupils and staff.
3. Scotland is a multi-faith and multi-cultural society, where people of all faiths and none can flourish. Therefore as noted in [current Scottish Government guidance](#), RO in schools must be sensitive to individual spiritual needs and beliefs, whether these come from a faith or non-faith perspective, while being equally sensitive to Scotland’s longstanding religious traditions and origins, including Christianity, and seeking to reflect these.

Legislation on religious observance

4. Sections 8 and 9 of the 1980 Act refer to “religious observance” (essentially, acts of collective or individual worship) and “the provision of instruction in religion” (interpreted today as religious and moral education). Section 9 gives parents a right to withdraw their child (of any age) from both RO and from RME as a subject, without taking into account the views of the child. This also applies to denominational schools. Current Scottish Government [guidance on RO](#) (updated in 2017) states that schools should ensure learners’ views are taken into account in discussions regarding their school experience. However, this guidance is non-statutory and this principle is not reflected in current legislation.

UN Convention on the Rights of the Child

5. Scotland, as part of the UK, is a signatory of the [UN Convention on the Rights of the Child](#) (“UNCRC”), which was recently incorporated into Scots Law by the UNCRC (Incorporation) (Scotland) Act 2024. The current legislation on RO and RME raises questions in connection with the Scottish Government’s obligations under the UNCRC – namely, article 12 of the UNCRC, which gives children the right to have their views considered in matters which affect them, with due weight being given in accordance with the age and maturity of the child. It also raises

questions in relation to article 14, which details the right to freedom of thought, conscience and religion.

Overview of the Consultation

Why the government wants to amend the legislation

6. Given the questions around current legislation on RO and RME and the Scottish Government's UNCRC obligations, the Scottish Government proposes to amend the legislation to ensure clarity and put the position in relation to UNCRC compliance beyond doubt as soon as possible.

The proposed amendments

7. The Scottish Government proposes to amend section 9 of the 1980 Act to require due weight to be given to the pupil's views when parents are exercising their right to withdraw their child from RO/RME, which would bring legislation into line with [existing guidance](#) on RO.
8. Given that any action short of the proposed amendments would not achieve the Scottish Government's objective set out above, this consultation:
 - sets out the intended legislative change; and
 - seeks any views on the positive and/or negative implications of these changes as well as insights into how the right to withdraw currently works in practice, which may help to inform implementation.

Given that the proposed legislation on RO/RME would effectively bring a key principle of existing guidance into law, we do not expect there to be significant practical implications resulting from these changes. However, responses to this consultation will also help inform further consideration given to implementation and any potential support that may be appropriate. In particular, we would be keen to gather better information on how schools implement the current guidance.

Consultation questions

9. The attached consultation questionnaire contains 6 questions seeking consultees' views on the proposed changes.

Consultation Questions

1. What are your views on the proposed changes, including in terms of practicality for schools and ease of implementation?
2. What do you anticipate being the main positive and negative implications of these changes, including for schools, pupils, parents and any financial implications? How might any negative implications best be addressed?

3. What insights or experiences do you have regarding how the right to withdraw from religious observance and RME/RE currently works in schools, including how schools communicate with parents, the pupil's voice and the practical application of the withdrawal process?
4. Do you think the proposed changes offer a reasonable way forward at this time to address questions about UNCRC compliance?
5. What mechanisms do you think would be most effective for ensuring that schools and parents give due weight to pupils' views when considering withdrawal from religious observance or RME/RE?
6. As part of our work to bring forward amendments to legislation, we will finalise a Children's Rights and Wellbeing Impact Assessment, and an Equality Impact Assessment. To help inform this work, we would welcome your views on the impact of our proposals on children's rights and equalities, as well as any related evidence/research you may be aware of.

What will happen after the consultation closing date

Responding to this Consultation

We are inviting responses to this consultation by 12 January 2025.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space ([Scottish Government consultations - Citizen Space](#)). Access and respond to this consultation online at <https://consult.gov.scot/education-reform/religious-observance-education-legislation-schools>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 12 January 2025.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Curriculum and Qualifications Division, Directorate for Education Reform
Scottish Government
2B North
Victoria Quay
Edinburgh, EH6 6QQ

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: [Scottish Government - Privacy Notice](#)

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at [Scottish Government consultations - Citizen Space](#). If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at ROandRME@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online at: [Scottish Government consultations - Citizen Space](#). Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



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