

The Scottish Parliament Equalities, Human Rights and Civil Justice Committee call for views on the Children (Withdrawal from Religious Education and Amendment of UNCRC Incompatibility Duty (Scotland) Bill.

About Connect

Connect is a long-standing independent parents' organisation and the only Scottish charity which is dedicated to supporting parental engagement in education. We provide membership services to around 2000 Parent Councils and PTAs, as well as offering advice and information to individual parents/carers about any aspect of the education of their child or the wider education system. Our evidence-based approaches reflect both the recognised significant role of families in the learning of their children and young people, and the stated policies and legislation which pertain in Scotland.

1. What are your views on the proposed changes in the Bill to require that a child is informed if their parent asks for them to be withdrawn from either or both RME/RE and religious observance in school

It is important that children are included in discussions about their education, tailored to their level of capacity, but parents must be informed this is part of the process and schools must conduct these discussions with all parties in an open and sensitive way.

There may also be disagreements on this issue between parents, particularly in shared parenting contexts and so schools also need to be mindful of this.

2. What are your views on the proposed changes in the Bill to require that a child is given the chance to express their views; and where the child's views are different from the parent's views, the school would have to follow the child's wishes? Please note, this only applies where the parent wishes to withdraw their child, but the child wishes not to be withdrawn.

We have strong concerns about the Bill and the impact this could have on the relationship between home and school if passed as it is currently written and how it could lead to the removal of the right of parents to remove their child from religious observance and/or religious education.

Connect previously [responded](#) to the Scottish Government's consultation on proposed changes to the current legislation on religious observance (RO) and religious and moral education (RME) in schools to require due weight to be given to the pupil's views when parents are exercising their right to withdraw their child, to align with the United Nations Convention on the Rights of the Child. In our response we highlighted how important it was that any changes should not lead to conflict between the school, the parent and the child or between the child and the parent.

Connect's concern is it is not appropriate to remove parents' legal rights to withdraw their child from religious education or observance in a blanket manner, particularly for young children, potentially setting parent against child, with school staff acting as adjudicators. School staff may not be trained in this role which could be highly sensitive and damaging to important home-school relationships and trust. In terms of determining a child's capacity to make this decision themselves, school staff may not be trained in this which is a very specialist area; particular care, sensitivity and support is needed.

3. What do you anticipate being the implications of this Bill for schools, pupils and parents?

If there is not a child protection concern or issue then where there is conflict between a parent and child there will require skilled, independent professionals to determine a solution that both maintains the rights and legal obligations of parents as primary carers along with the views of a child.

Determining the capacity of a child will be a time-consuming activity, that could be detrimental to the entire family and relationship with the school if not resolved quickly. Where there are safeguarding or child protection concerns then these would need to be escalated in the normal way.

In Scotland as per law and policy, parents are not optional participants in decisions affecting their child's education, as set out in the Scottish Schools (Parental Involvement) Act 2006 that every parent has the right to be involved in their child's education and learning, as well as in the UNCRC which states:

Article 5 "States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention."

Article 14 (the right of the child to freedom of thought, conscience and religion) 14.2 "States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child."

This means where there is conflict in decision making for and around the best interests of a child and the rights of a child, parents need to be involved in those discussions when there is not a child protection concern. The law also states that parents and carers are those legally responsible for the safeguarding and protection of their child's health, development and wellbeing, and that they are the key people in guiding and directing the child's "upbringing" (Children (Scotland) Act 1995). Religious and cultural activities would come under this heading of "upbringing". Therefore, where there is conflict, there would be a potential breach in law if a parent's legal right to be involved in these decisions was removed or overridden.

It cannot be argued that this Bill is purely about children's rights as the Bill does not give children the right to withdraw themselves from religious observance and education, only to overturn the parents' wishes that they be withdrawn. This means this will have a disproportionate impact on families of diverse faiths or none who wish to withdraw their child.

The UNCRC cannot be used to disempower parents from their own family rights and preferences to diverse faith (or none) and cultural values. Connect is also concerned that if school staff support a child to over-ride stated parental wishes, this may contravene other aspects of human rights for the child and the parent(s). We are concerned it could be open to misuse, such as children being put under undue influence by the school and encouraged to reject the opt out as so to avoid having to allocate staff for supervision.

4. What insights or experiences do you have regarding how the right to withdraw from religious observance and RME/RE currently works in schools?

Many parents are currently unaware they have the right to withdraw their child from religious observance and RME/RE.

We have also heard from teachers who have experienced being informed from a pupil that their parent wanted them withdrawn last minute.

5. This Bill will introduce an exemption to the section 6 compatibility duty of the UNCRC Act in circumstances where a public authority is compelled to act incompatibly with UNCRC requirements in fulfilment of another Act of the Scottish Parliament. This mirrors the approach taken to Acts of the UK Parliament. Do you have any thoughts on this approach?

We are unsure about the consequences of this proposal, and do not feel we are able to comment beyond not wishing to see children's rights watered down and are concerned this could lead to inconsistency where children's rights are expected to give way in some areas of life covered by previously published legislation and not in others which are not.

We would also like to stress the importance of policy makers balancing the rights of different groups and that parents' and children's rights shouldn't be seen as in conflict with one another.

6. Have you got any other comments on the Bill?

Finally, we would also like to highlight the need for more clarity on the difference between religious observance and religious education. Religious education as in the comparative study of different religions is an important feature of philosophical education as well as promoting understanding of different viewpoints.

We feel it is important that the difference between religious observance and religious education as in learning about different religions is communicated clearly to parents. Some parents and children may wish to withdraw from participating in observance while still allowing the opportunity to learn about religions from an academic perspective.

Connect

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