

**Scottish Government**  
**Schools - religious observance and religious and moral**  
**education: consultation**  
**26 January 2025**

**Introduction**

1. NASUWT welcomes the opportunity to comment on the 'Schools - religious observance and religious and moral education' consultation.
2. NASUWT is the Teachers' Union, representing teachers and school leaders in all sectors of education and across all 32 local authorities in Scotland.

**1. What are your views on the proposed changes, including in terms of practicality for schools and ease of implementation?**

3. The proposal is to strengthen the current Scottish Government non-statutory guidance that schools should ensure learners' views are taken into account in discussions regarding their school experience in relation to religious observance. The consultation documentation does not contain any evidence to demonstrate the volume of such requests currently being received by schools.
4. Where schools are already giving due weight to the views of the child then there should in theory be no extra burdens. Certainly, NASUWT considers that schools and teachers in Scotland are very familiar with

Article 12 of the United Nations Convention on the Rights of the Child (UNCRC):

*'assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.'*

5. Nevertheless with a formal statutory consultation process, which will likely garner some national press, there is likely to be an increased awareness within the general public of the right to request withdrawal and consequently the possibility of an increase in the number of cases which schools will require to manage.

**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?**

6. The Union would not object in principle to the proposed changes, but believes there must be an assessment undertaken to establish any consequential burdens for teachers and schools which this might create. Thereafter, a plan must be instituted to mitigate these burdens and guidance provided as to how the balancing exercise should be carried out. NASUWT has been consistently clear in terms of the implementation of the UNCRC, that it is insufficient to stipulate the test that should be applied without also giving practical guidance on how that test should be applied. For example, what should happen if the views of the child are preferred to those of their parent? What is the central advice then? What do schools do where one parent shares the view of their child but the other does not? Leaving schools to navigate such complexities would be inappropriate, particularly in the context of an updated provision, set out in primary legislation.

**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?**

7. Schools may include information on the right to withdraw from religious observance within standard communications, such as the school handbook, the school website, or within parent/carer newsletters. As with much educational practice in Scotland, such communication processes will likely vary between schools and local authorities.
8. In order to access their right to withdraw parents are usually required to make an individual approach to the school or headteacher: this makes any request naturally reactive. It is not customary to approach individual families or pupils to query whether they would wish to withdraw, as such a request might easily be construed as less favourable treatment or a detriment in terms of a right to access education or in terms of the duties set out within the Equality Act and the public sector equality duty.

**4. Do you think the proposed changes offer a reasonable way forward at this time to address questions about UNCRC compliance?**

9. The UN Committee on the Rights of the Child reports on treaty compliance for the UN Convention on the Rights of the Child and has said that the UK's law on collective worship is outdated and violates the treaty, which the UK ratified back in 1991. One of the key recommendations made by the UN Committee is for children under 16 to be given a right to withdraw from collective worship. The proposal may seem to offer a reasonable way forward to ensure that children in Scotland do have the right to withdraw from collective worship without parental permission. Nevertheless, as set out in our response to question 2, such legislative change would require to be accompanied by more detailed guidance.

**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?**

10. Any mechanism must have a clear and easily understood process and procedure alongside a clear workload impact assessment.

11. Excessive workload has a huge impact on teachers' health, safety and wellbeing and undermines their ability to teach effectively. Four in every five teachers say that their workload and the stress of the job have increased, over half of teachers say that their job has negatively affected their physical health in the last twelve months and four in five say their job has adversely affected their mental health. Two thirds of teachers tell us that they are seriously considering leaving the profession because of concerns about excessive workload. There is no capacity within the system for additional bureaucracy.

**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.**

12. The NASUWT believes greater openness and transparency is required in the framing of the proposal both within the consultation documentation as well as within any children's rights and wellbeing impact assessment.

13. The UNCRC Act cannot apply to reserved matters, or devolved matters that are currently legislated for in Westminster enactments. The profound consequences of these limitations are routinely ignored by Scottish Government. In the context of the education system, key fundamental 'omnibus' legislation, such as the Education (Scotland)

Act 1980 and the Children (Scotland) Act 1995, which provide the legal footing for the operation of schools and other education-related services, have been found to be beyond the scope of the UNCRC Act even though they relate to devolved matters. Therefore as a proposed amendment to the 1980 Act any references to the UNCRC are redundant as this is an amendment to a Westminster Act which is out of the reach of the UNCRC Act.

For further information, please contact:

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**NASUWT is happy for this response to be published with our name and to be contacted again by the Scottish Government in relation to this consultation exercise. We confirm that the privacy policy has been read and consent to the data we have provided being used as set out in the policy.**