

RELIGIOUS ETHOS IN SCHOOLS IN SCOTLAND, ENGLAND AND WALES AND THE REPUBLIC OF IRELAND

Briefing Paper Prepared for the Education Committee
(April 2009)

BACKGROUND

The introduction of the Education Bill establishing the Education and Skills Authority (ESA) in Northern Ireland has led to the leaders of the Catholic Church expressing fears for the ethos of Catholic schools. The ESA will become the employers of all teaching and non-teaching staff in all grant-aided schools including Catholic maintained schools.

A different, but similar issue has arisen for the controlled sector where a new body will be formed to take ownership of this sector from the five Education and Library Boards that will cease to exist when the ESA is established. The controlled sector does not at present have an identifiable ethos nor as yet a body to represent their sector.

This Research Briefing provides an overview of legislation that was put in place in Scotland, England and the Republic of Ireland (RoI) to protect the ethos of the Catholic sector where the management of their schools passed to state control. It includes provision for the employment of teaching staff who will uphold the Catholic ethos.

SCOTLAND

Any discussion on a model for faith based schools in Scotland has, by definition, to be referring to Catholic faith-based schools since of the 389 state-funded faith schools in Scotland, 385 are Catholic¹. Of the others, one is Jewish and three are Episcopalian. A comparison published in 2004 of education systems in Europe² found that in Scotland:

The Roman Catholic Church retains considerable influence over the appointment of staff, the teaching of religious education and the ethos of the schools. Like the Church of Scotland it has the right of representation on education committees. It has a committee, the Catholic Education Commission (CEC) which concerns itself with matters in Scottish education which affect the Church. In addition to various other Christian denominations, several other world faiths (notably Chinese, Jewish, Moslem, Hindu and Sikh) are practiced, in the main by ethnic minority groups.

¹ <http://www.scotland.gov.uk/Topics/Education/Schools/FAQs>

² Hofman R.H. et al (2004) *Institutional Context of Educational Systems in Europe: A Cross Country Comparison on Quality and Equity*; Kulwer Academic Publishers: Norway.

Local authorities directly employ teachers who work in Catholic schools in Scotland. However, the Catholic Church has a statutory role in the appointment of teachers in Catholic schools and statutory representation on school boards³.

The Education (Scotland) Act 1918

The Education (Scotland) Act 1918 provided full state funding to Catholic schools in Scotland. The Government wanted to achieve equality of provision for all pupils in Scotland and Catholic schools had been unable to afford to provide the range of education provided to state school pupils. In bringing Catholic schools into the state system the following rights were guaranteed to the Catholic sector in the 1918 Act:

- Catholic schools were to be fully funded by the state and open to inspection by Her Majesty's Inspectors;
- As public schools Catholic schools were to be open to all, but provided primarily to serve the needs of the Catholic community;
- The Church was expected to approve all teachers in Catholic schools as to their 'religious belief and character'; and
- The local education authority was to appoint, with the approval of the Church, a supervisor for religious education in Catholic schools.

Unlike England, Wales and Ireland, Catholic schools in Scotland in 1918 were not offered the option of being voluntary providers sanctioned and financed by the state. In Scotland Catholic schools had to accept transfer to the education authorities if they were to continue to receive public money⁴.

The Education (Scotland) Act 1980

The Education (Scotland) Act 1980⁵ ("the Act") requires education authorities and schools to make provision for Religious Education and Religious Observance and includes provision for parents to withdraw their children from them if they wish. The Act also provides for the employment of teachers in denominational schools.

Section 16 of the Act refers to schools to which the 1918 Act would apply for the '*Transference of denominational schools to education authorities*'. Section 16 (3) states:

The existing staff of teachers in a school transferred under this section shall be taken over by the education authority and shall as from the date of transfer be placed upon the same scale of salaries as teachers of

³ Scottish Catholic Education Service website at: <http://www.sces.uk.com>

⁴ From the Learning and teaching Scotland (LTS) website at:
<http://www.ltscotland.org.uk/antisectarian/whatsSectarianism/legislation/legislationAndEducation/index.asp>

⁵ The Education (Scotland) Act 1980 available at:
http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1980/cukpga_19800044_en_1

corresponding qualifications appointed to corresponding positions in other schools of the same authority; and any question which may arise as to the due fulfilment or observance of any provision or requirement of this subsection shall be determined by the Secretary of State.

There are provisions in the Act requiring teacher appointments to denominational schools to be approved by the relevant church or denominational body. The relevant provisions in the Act are contained in Section 21 '*Management of denominational schools*':

(2) Subject to subsections (2A) and (2C) below, in any such schools the education authority shall have the sole power of regulating the curriculum and of appointing teachers;

(2A) A teacher appointed to any post on the staff of any such school by the education authority shall ...satisfy the Secretary of State as to qualification, and shall be required to be approved as regards his religious belief and character by representatives of the church or denominational body in whose interest the school has been conducted;

(2B) Where the said representatives of a church or denominational body refuse to give the approval mentioned in subsection (2A) above they shall state their reasons for such a refusal in writing.

This does not mean, however, that all teachers in Catholic schools have to be Catholic, but they do need to be approved by the church. There is no requirement for teachers in Scotland to have a Certificate in Religious Education, as is the case in Northern Ireland for Catholic maintained nursery and primary schools⁶.

Catholic Education Representative Bodies

The Catholic Education Commission in Scotland is a body constituted by the Bishops' Conference of Scotland to advise and assist the Bishops in educational matters and promote its development. Membership of the Commission comprises a representative from each Diocese, representatives from the Catholic Head Teachers Association, A Church Representative on a local authority, a representative from the Religious Education Advisers and Faculty of Education of the University of Glasgow, and a parent representative.

The Scottish Catholic Education Service (SCES) is an agency of the Catholic Education Commission and develops and implements its policies. The Director of SCES reports to the Chairperson of the Commission⁷.

⁶ Email correspondence with Senior Research Specialist in 'Spice' (Scottish Parliament Research Service) 20.4.2009.

⁷ SCES website is at: <http://www.sces.uk.com>

Charter for Catholic Schools in Scotland

A *Charter for Catholic Schools in Scotland*⁸ was launched in 2004 by the SCES. It outlines ten essential elements of the Catholic Church's philosophy for education and is included at Annex A of this briefing paper. The Catholic Church requires that all teachers applying for posts in Catholic schools are committed to the promotion and support of the Catholic school's mission, aims, values and ethos. When applying for a teaching post, applicants must provide evidence that they are committed to the Charter.

Approval of Teachers in Catholic Schools: Guidance for Teachers is published by the SCES on behalf of the Bishops' Conference of Scotland. The Guidance does not preclude applications from non-Catholic teachers, but requires applicants to submit references to the Bishop of the Diocese where the vacancy has occurred. The Guide includes the following information:

When seeking approval, a teacher must demonstrate how his/her personal "religious belief and character" enables him/her to undertake the duties of the particular teaching post within the context of a Catholic school, with its particular mission, values and ethos, as outlined in A Charter for Catholic Schools in Scotland. All teachers who seek approval must provide a reference from a suitable person who can testify to the teacher's personal "religious belief and character". The reference for a Catholic teacher should be provided by the teacher's parish priest who should be able to testify to the teacher's personal "religious belief and character".

North Lanarkshire Council: Learning and Leisure Services provide *Notes of Guidance on the Recruitment Process for a Post in Teaching* covers all teaching appointments in the Council area. Instruction for applicants states that if the post is in a Catholic school they must "...provide a letter of approval from the diocesan office responsible for the area in which the school is located. (This does not apply to posts in non-denominational schools.) You are advised to seek approval sufficiently early in the process to meet this condition." The Guidance goes on to say that the council will be unable to make appointments unless all the conditions in the Guide are met.

England and Wales

Historically in England schools founded by private bodies included 'voluntary controlled schools' which were mainly established by the Church of England and 'voluntary-aided schools' set up by either the Catholic Church or the Church of England⁹. The *School Standards and Framework Act 1998* meant that secondary schools could opt for 'Community', 'Foundation', 'Voluntary', 'Community Special', or 'Foundation Special' status. Schools that were previously funded by Local Education Authorities, churches, or central

⁸ A *Charter for Catholic Schools in Scotland (June 2004)* available at: <http://www.sces.uk.com/Download/Documents/SCESCharter.pdf>

⁹ Hofman R.H. et al (2004) *Institutional Context of Educational Systems in Europe: A Cross Country Comparison on Quality and Equity*; Kulwer Academic Publishers: Norway.

government (grant-maintained) would be newly designated as 'Community', 'Voluntary' and 'Foundation' schools. It was following the 1998 Act that 'Muslim Faith Schools were first established'¹⁰. In the *Education Act 2002*¹¹ a 'maintained' school means a community, foundation or voluntary school or a community or foundation special school.

Schools that have a designated faith character of any denomination are able to ask for faith commitment as one of the criteria used in making staff appointments, in order to maintain the faith character of the school. In voluntary controlled and foundation schools, school governors are able to ask how potential head teachers will maintain and develop the religious character of the school. Criticism of faith schools in England from some politicians and a teaching union prompted the issuing of a press release by faith school leaders¹². They argued that legislation in place to protect the ethos of faith schools does not necessarily mean that only members of the faith can be appointed to leadership roles in their schools. They claim there are examples of members of other faiths or no faith teaching in faith schools.

School Standards and Framework Act 1998

Section 60(4) and 60(5) of the School Standards and Framework Act 1998¹³ allowed the Governing Bodies of foundation or voluntary faith schools to give preference in appointments to those whose religious faith accords with that of the school. Staff at foundation or voluntary schools with a religious character could appoint a head teacher having regard to their '*ability and fitness to preserve and develop the religious character of the school*'.

In the case of a voluntary-aided school preference could also be given in the appointment, promotion or remuneration of teachers whose religious opinions were in accordance with the tenets of the religion or religious denomination, attend religious worship in accordance with those tenets and who give or are willing to give religious education in the school in accordance with those tenets. Regard could also be given if dismissing a teacher if their conduct was incompatible with the '*precepts, or with the upholding of the tenets, of the religion or religious denomination so specified*'.

Section 60(6) specifies that if the school is a voluntary aided school no one, other than a teacher, can be disqualified because of their religious opinions or their attendance or non-attendance at religious worship.

Education Act 2002

The Education Act 2002 came into force in July 2002 and repeals some of the legislation with regard to faith schools that were in the School Standards and

¹⁰ Homer, W. et al (eds), 2007 *The Education Systems of Europe*.

¹¹ Education Act 2002 available at:

http://www.opsi.gov.uk/acts/acts2002/ukpga_20020032_en_1

¹² Available at: <http://www.catholicchurch.org.uk/ccb/content/pdf/3702>

¹³ School Standards and Framework Act 1998 available at:

http://www.opsi.gov.uk/acts/acts1998/ukpga_19980031_en_1

Framework Act 1998. Section 49 of the 2002 Act repeals Section 91 of the 1998 Act allowing schools with a religious character to agree special arrangements with their Local Education Authority to preserve their religious character when admitting pupils¹⁴.

Section 58 of the School Standards and Framework Act 1998 allows for what are known as 'reserved teachers' in foundation, voluntary and controlled schools with a religious character. These schools are allowed to 'reserve' up to a fifth of their teaching posts for teachers selected on the basis of their competence to teach religious education in accordance with the tenets of the school faith. Section 37 of the Education and Inspections Act 2006 has amended these provisions to allow head teachers at such schools to also be reserved teachers.

Sections 35(4) and 36(4) of the 2002 Act refer to staff appointments and provide for the Secretary of State to make regulations with further provisions on the staffing of schools. Sections 35(6) and 36(6) refer to reserved teachers whereby regulations made by the Secretary of State regarding the appointment and dismissal of certain teachers at schools with a religious character shall have effect subject to the provisions applying to reserved teachers.

Provision applying to reserved teachers¹⁵ means that if a school considers that a reserved teacher has failed to give religious education efficiently and suitably they may require the appropriate body to dismiss them. In relation to a foundation school this will be the governing body and in a voluntary controlled school the local education authority.

In the event of the delegated budget being suspended by the Local Education Authority for a community, voluntary controlled, community special or maintained nursery school, the 2002 Act allows for particular arrangements to be put in place for the Local Education Authority to appoint, suspend and dismiss staff as it sees fit. However, in relation to reserved teachers, this can only be done in consultation with the governing body and in line with arrangements for the appointment and dismissal of reserved teachers in voluntary controlled schools.

Government Staffing Guidance (Education Act 2002)

Staffing guidance under sections 35(8) and 36(8) of the Education Act 2002¹⁶ contains information on Diocesan authority attendance and advisory rights in relation to voluntary controlled and foundation schools which are Church of England or Roman Catholic Church schools. The guidance states that the governing body of such a school may, as opposed to must, accord advisory rights to the Diocese in relation to the appointment, engagement or dismissal

¹⁴ Explanatory Notes Education Act 2002 at:
<http://www.opsi.gov.uk/ACTS/acts2002/en/02en32-a.htm>

¹⁵ In Section 58 of the School Standards and Framework Act 1998.

¹⁶ Available at: <http://www.governornet.co.uk/linkAttachments/ACF3B38.doc>

of teaching staff. These rights would apply in the same way as those of the Local Education Authority and would include a right of an appropriate diocesan officer to attend and offer advice at all proceedings relating to the appointment or dismissal of any teachers. The governing body must consider any advice offered and provide agreement or withdrawal of agreement to the diocesan authority in writing.

Rol

The education system in the Rol is a partnership between the State and various private entities. As the State gives explicit recognition to the denominational character of the schools, there is not the same perception of a need for the ethos of different denominational schools to need protection.

In the case of Roman Catholic and Church of Ireland schools the owners are usually the diocesan trustees. Other denominational schools usually have a board of trustees nominated by the church authority, with multi-denominational schools owned by a limited company or board of trustees. Irish medium schools may come under the patronage of the Catholic Church, although some are owned by a limited company. The state pays for most of the building and running costs with a local or patron contribution. This contribution is limited to 5% of the total cost of building or renovation and a cap on the final amount payable. Grants are also provided by the state for the running costs of schools¹⁷.

Education Act 1988

The Education Act 1988¹⁸ *'respects the diversity of values, beliefs, languages and traditions in Irish society and is conducted in a spirit of partnership between schools, patrons, students, parents, teachers and other school staff, the community served by the school, and the State.'* Under the Irish Constitution it is acknowledged that *'the primary and natural educator of the child is the Family and guarantees to parents the freedom to decide where that education should take place. The State shall provide free primary education, supplement and give reasonable aid to private and corporate educational initiatives and if necessary provide other educational facilities and institutions'*¹⁹.

The Education Act 1988 9(d) states that schools shall promote the moral, spiritual, social and personal development of students and provide health education for them, in consultation with their parents, having regard to the characteristic spirit of the school.

¹⁷ Citizens' Information at: <http://www.citizensinformation.ie/categories/education/primary-and-post-primary-education/going-to-primary-school/ownership-of-primary-schools>

¹⁸ Education Act 1988 available at:
<http://www.irishstatutebook.ie/1998/en/act/pub/0051/sec0008.html>

¹⁹ Hofman R.H. et al (2004) *Institutional Context of Educational Systems in Europe: A Cross Country Comparison on Quality and Equity*; Kulwer Academic Publishers: Norway.

Under the functions of a school board the 1988 Act 15(2) states that in carrying out its functions the board shall:

(b) uphold, and be accountable to the patron for so upholding, the characteristic spirit of the school as determined by the cultural, educational, moral, religious, social, linguistic and spiritual values and traditions which inform and are characteristic of the objectives and conduct of the school, and at all times act in accordance with any Act of the Oireachtas or instrument made there under, deed, charter, articles of management or other such instrument relating to the establishment or operation of the school.

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Annex A

SCOTTISH CATHOLIC EDUCATION SERVICE

published by the Scottish Catholic Education Service on behalf of the Bishops' Conference of Scotland

A CHARTER for CATHOLIC SCHOOLS in SCOTLAND

The mission of the Catholic school is to develop as a community of faith and learning, providing the highest quality of education, and offering formation through the promotion of Gospel values, through celebration and worship, and through service to the common good.

All Catholic schools in Scotland, in honouring Jesus Christ as the Way, the Truth and the Life, will feature the following characteristics:

- a commitment to the integrated education and formation of the whole person, in close partnership with parents as the first educators of their children;
- an inclusive ethos which aims to honour the life, dignity and voice of each person, made in the image of God;
- a commitment to the search for wisdom in life and to the pursuit of excellence, through the development of each person's unique God-given talents;
- a commitment to the spiritual formation of the school community, through the shared experience of prayer and liturgy, and in partnership with local parishes;
- the provision of religious education programmes which will enable young people to develop their understanding of Gospel values and of how to apply them to life;
- a commitment to uphold the moral teaching, faith tradition and sacramental life of the Catholic Church;
- a commitment to communicate Catholic social teaching and thereby to promote social justice and opportunity for all;
- a commitment to ecumenical action and the unity of Christians;
- the promotion of respect for different beliefs and cultures and for inter-faith dialogue;
- a commitment to support the continuing professional and spiritual development of staff.

All staff appointed to a Catholic school are expected to support and promote the aims, mission, values and ethos of the school, as illustrated in this Charter.