

Advice from the Equality & Human Rights Commission

“My colleague has come back to me and advised that in his opinion your legal advisors have identified the correct legal approach to this, and he sees nothing to suggest that they have missed anything significant”.

Original Request from the Vale of Glamorgan Council to the Equality & Human Rights Commission

I would be grateful for your advice on the following matter.

All Local Authorities are required to constitute a Standing Advisory Council for Religious Education (SACRE) within their local area. This requirement arises from the Education Reform Act 1988 Section 11(4) and (6) and Circular 10/94 107 and 109.

Representation on the SACRE includes:

- such Christian and other religious groups and denominations as, in the opinion of the local authority, will appropriately reflect the principal religious traditions in the area;
- associations representing teachers; and
- the local authority.

Our SACRE is comprised of six elected members, twelve representatives of Christian and other religious groups, and eight representatives of teachers' associations. Two co-opted places are available to be decided upon at the committee's discretion.

The main function of a SACRE is to:

- advise the local authority on worship and the religious education to be given in accordance with the agreed syllabus including methods of teaching, advice on materials and the provision of training for teachers;
- consider whether to recommend to the local authority that its current agreed syllabus should be reviewed by convening an Agreed Syllabus Conference;
- consider whether the requirement that religious worship in a county school should be 'broadly Christian in nature' should be varied (determinations); and
- report to the local authority and the Department for Education and Skills (DfES) on its activities on an annual basis.

It has the following aims:

- to monitor provision and raise standards in religious education
- to fulfil the legal requirement to review the agreed syllabus for religious education on a five yearly basis and monitor its implementation.
- to ensure that schools are informed of suitable resources
- to ensure that teachers are able to access appropriate continuing professional development.
- to ensure that schools fulfil statutory requirements for collective worship and provide a worthwhile experience for pupils.
- to ensure a more informed SACRE through providing regular updates on local and national issues.

The SACRE has received an application for membership from a representative of a local humanist group. It has objected to Humanist representation on the grounds that it is not a religious group, does not believe in religion, and therefore questions why it should have membership of SACRE.

The local authority has a duty to constitute the in accordance with section 390 of the Education Act 1996. This provision holds that the SACRE should be constituted to reflect Christian denominations and other religions/denominations as reflect the principal religious traditions in the area. The composition of the representative group is for the authority to decide.

The census for the Vale of Glamorgan shows that the largest percentage of the population after those who define themselves as Christian, are people of no religion – nearly a third of the population in this area.

58.1% Christian
32.9% No religion
0.6% Muslim
0.4% Other religion
0.3% Buddhist
0.2% Hindu
0.1% Jewish
0.1% Sikh

On this basis, the Council needs to consider whether Humanism falls within the definition laid down in section 390(4)(a) and should therefore be included in SACRE. If it does meet this definition of a religion (as opposed to for example a 'belief') then the Council would need to determine whether a Humanist representative is needed to reflect the religious traditions in the area.

The SACRE could consider whether they wish to include a Humanist as a co-opted member without voting rights as opposed to a representative member.

So it seems the key questions are:

- does Humanism fall within the definition of a religion;
- would a Humanist member be representative of the Vale area;
- is there an obligation on the Council to include a Humanist representative on the SACRE?

Our legal advisors have said that any decision by the Council to refuse membership should be based on whether Humanism is considered to be a religion for the purposes of section 390 and on the grounds that a Humanist representative would not proportionately reflect religious traditions within the Vale. Section 390 must be carefully considered in making any decision to refuse.

Taking all this into account, it seems that as SACREs deal with religious education and collective worship, there is no obligation to have a Humanist member. A Humanist member could be co-opted on to the group without voting rights if the SACRE or local authority want this to happen.

The British Humanist Society have written a piece: Why Humanism should be represented on SACREs and ASCs. It includes information on Humanists on SACREs, why SACREs should invite Humanist participation, the view of the Department for Education and Skills (now DCSF), and the legal position. In this piece, it states that 'religion' should be interpreted to mean 'religion and belief' and that therefore, a case could be made for humanists to be full members of Committee A on the SACRE. It also states that it considers that it would be discrimination for Humanists to sit on a SACRE with anything less than full voting rights.

We want to be sure that we have taken the appropriate legislation into account, particularly the Equality Act 2010, the public sector equality duty and the specific duties for Wales, and indeed, the Human Rights Act. I would appreciate it if you are able to point us in the direction of anything we have missed or should be taking into account over and above the considerations outlined above.

Thank you for your assistance in this matter.