

South Gloucestershire SACRE

Advice to schools on withdrawal from Religious Education



Standing Advisory Council
on Religious Education in
South Gloucestershire

This document sets out advice to schools on withdrawal from Religious Education. It is based on a paper created by Cornwall County Council. The South Gloucestershire SACRE gratefully acknowledges the permission of Cornwall CC to use its document to produce this advice.

The Basic Curriculum

RE forms part of every school's basic curriculum. The basic curriculum can be understood in the following way:

1. Those aspects of education which are the responsibility of the parent and which the school supports through its basic curriculum;
2. Those aspects of education that are the responsibility of the school and which are supported by parents.

The first category above includes RE and Sex Education, the second is the National Curriculum. If we view the basic curriculum in this way we can now understand why parents have the right to withdraw their children from RE and Sex Education but not the National Curriculum and why schools can disapply pupils from the National Curriculum (subject to certain conditions) but not RE and Sex Education. Hence, if a parent wishes to withdraw a child from a National Curriculum subject because they are studying a religious topic related to that subject they cannot.

Examples

a) Ruth has been withdrawn from RE by her parents. In Y4 she is studying the Tudors. The issue of the foundation of the Church of England comes up in lessons, along with general considerations about the impact of the Reformation. Ruth's parents cannot withdraw her from History as this is a National Curriculum Order and what they study is not part of the school's basic curriculum for RE.

b) Simon is studying the Middle East conflict as part of GCSE History. His parents have withdrawn him from RE and complain that when he has to do some study on Islam and Judaism as part of his understanding of the Middle East conflict he has been doing RE against their wishes. In that they have endorsed his choice as parents and had access to the syllabus through the options booklet their complaint seems strange. Nevertheless, there is no need to exclude Simon from any part of his History given that what is presented there is not part of the school's basic curriculum for RE. In this case the parents have no right to withdraw their child.

c) Paul is a Y9 pupil from a Jehovah's Witness background. In Y9 Music pupils study the Mass in B by JS Bach. Paul's parents wish him to be withdrawn from Music, as they do not wish him to learn about the musical traditions of the Roman Catholic Church. Paul has already been withdrawn from RE. The school informs the parents that they do not have a right to withdraw their son from Music, as it does not form part of the school's basic curriculum for RE.

Schools need to be clear that if a pupil is withdrawn in whole or in part from RE then the responsibility for what goes on when the pupil is withdrawn and under the supervision of the school lies ultimately with the parents. It is important to understand this in order to be able to understand the options the law gives to parents wishing to withdraw their children from RE and what the school's response may be. Religious Education in the basic curriculum is the Agreed Syllabus for RE in Community and Controlled Schools and the RE syllabus approved by the Governing Body in Aided Schools in accordance with the Trust Deed.

What the Education Acts say

The basic premise of the **2002 Education Act** is that a school will provide RE for all its pupils as part of the basic curriculum, subject to certain provisions:

80 Basic curriculum for every maintained school in England

(1) The curriculum for every maintained school in England shall comprise a basic curriculum which includes-

(a) provision for religious education for all registered pupils at the school (in accordance with such of the provisions of Schedule 19 to the School Standards and Framework Act 1998 (c. 31) as apply in relation to the school),

(b) a curriculum for all registered pupils at the school who have attained the age of three but are not over compulsory school age (known as "the National Curriculum for England"),

(c) in the case of a secondary school, provision for sex education for all registered pupils at the school, and

(d) in the case of a special school, provision for sex education for all registered pupils at the school who are provided with secondary education.

(2) Subsection (1)(a) does not apply-

(a) in relation to a nursery class in a primary school, or

(b) in the case of a maintained special school (provision as to religious education in special schools being made by regulations under section 71(7) of the School Standards and Framework Act 1998).

It is incumbent on every LEA, governing body and headteacher to ensure that RE is provided in a school, as is made clear in the **School Standards and Framework Act 1998**:

69. - (1) Subject to section 71, in relation to any community, foundation or voluntary school-

(a) the local education authority and the governing body shall exercise their functions with a view to securing, and

(b) the head teacher shall secure, that religious education is given in accordance with the provision for such education included in the school's basic curriculum by virtue of section 352(1)(a) of the Education Act 1996.

Section 71 restates the right to withdrawal:

71. - (1) If the parent of a pupil at a community, foundation or voluntary school requests that he may be wholly or partly excused-

(a) from receiving religious education given in the school in accordance with the school's basic curriculum,

(b) from attendance at religious worship in the school, or

(c) both from receiving such education and from such attendance, the pupil shall be so excused until the request is withdrawn.

It should be noted that this right can be exercised without need for justification. This is to protect the right of the parent to withdraw their child/children from RE from being eroded. Nevertheless, it is important to look further in the Act to realise that parents who exercise their right to withdraw their children from RE do have a variety of options. Section 71 (3) sets these out:

(3) Where in accordance with subsection (1) a pupil has been wholly or partly excused from receiving religious education or from attendance at religious worship and the local education authority are satisfied-

(a) that the parent of the pupil desires him to receive religious education of a kind which is not provided in the school during the periods of time during which he is so excused,

(b) that the pupil cannot with reasonable convenience be sent to another community, foundation or voluntary school where religious education of the kind desired by the parent is provided, and

(c) that arrangements have been made for him to receive religious education of that kind during school hours elsewhere, the pupil may be withdrawn from the school during such periods of time as are reasonably necessary for the purpose of enabling him to receive religious education in accordance with the arrangements.

Subject to Section 71 (4)

(4) A pupil may not be withdrawn from school under subsection (3) unless the local education authority are satisfied that the arrangements there mentioned are such as will not interfere with the attendance of the pupil at school on any day except at the beginning or end of a school session (or, if there is only one, the school session) on that day.

Section 71 (3) makes it clear that parents have a right to have their children religiously educated according to their wishes during the school day and that where reasonable these wishes should be met, but not at cost to the school or the LEA or to the pupil's attendance. If parents are to fully understand their right to withdraw they also need to be fully aware of the options the law allows in their pursuit of religious education for their children.

Examples

a) There are a number of children from an Evangelical Christian background in a Secondary school. Their parents wish them to have a Bible based Christian education. One of the teachers in the school is a member of their fellowship and they request that this teacher should teach them RE. Unfortunately, time-tabling difficulties do not allow this to happen so the local Pastor comes in on a weekly basis to religiously educate these pupils according to the wishes of the parents. The parents of these pupils object to the teaching of evolution in science and ask that their children be withdrawn from Science lessons when this

theory is mentioned or studied. The school inform the parents that their children cannot be withdrawn from Science as this is in the National Curriculum.

b) John and Patrick are Roman Catholics. They could not get into their local Catholic VA School due to lack of places. The Community school they are in is walking distance from the Catholic school. Every Wednesday morning they go to the Catholic school for RE with their age group. They then go back to their classes at the Community school when the lesson is over. They are supervised by a parent in both going to the Catholic school and in going back to their Community school.

c) A number of Latter Day Saints go to a local school. In that town there is a Church of Jesus Christ of Latter Day Saints. The parents request that their children be allowed to go to the Church for RE. The best time for the Church is Friday at 10 am for one hour. This would seriously disrupt the attendance of these pupils so the school declines the request. The parents then arrange for RE to happen during the last lesson on a Tuesday afternoon. The school agrees as this is at the end of the session.

NB It should be noted that the usual safeguarding procedures apply when children have been withdrawn from RE, including CRB checks as necessary on those supervising children.

Advice from the DfES

In 2000 the DfES restated its advice from Circular 1/94 on its web site:

RELIGIOUS EDUCATION AND THE RIGHT TO WITHDRAW

Parents of a pupil at a community, foundation or voluntary school have a right to withdraw their children from religious education (RE). If a parent asks for their child to be wholly or partly excused from attending any RE at the school the school must comply unless the request is withdrawn. A school remains responsible for the supervision of any child withdrawn from RE, unless the child is lawfully receiving religious education elsewhere. Parents do not need to explain their reasons for seeking withdrawal. The Department recommends that to avoid misunderstanding, a head teacher may wish to clarify with any parent wanting to withdraw:

- the religious issues about which the parent would object their child being taught
- the practical implications of withdrawal
- the circumstances in which it would be reasonable to accommodate parents wishes
- if a parent will require any advanced notice of such RE and if so, how much.

SACRE would wish to endorse this advice in that if parents are going to understand their right in full they should have this explained to them by the school.

Example

A parent telephones the school to withdraw their child from RE, the school is a Community school. The headteacher invites the parent in to discuss what will happen when the pupil is withdrawn. The headteacher explains that the parent is

withdrawing their child from RE as it appears in the schools basic curriculum. After viewing the Agreed Syllabus the parent still wishes to remove their child from RE. The headteacher then explains the options for different types of RE and venues where this could happen. The parent does not wish to pursue these options and so the headteacher explains who will supervise the pupil, where that supervision will take place and that the pupil can do work set by the parent to further educate their child in their own religious or world view. The work set will be monitored by the person supervising the pupils withdrawal to ensure tasks set are completed but that the assessment of such work will be done by the parent. The headteacher makes it clear that the pupil will not be able to receive instruction in National Curriculum subjects during the time of withdrawal as this time is given over to a particular aspect of the school's basic curriculum. The headteacher then invites the parent to write to them formally requesting withdrawal and that withdrawal will occur from that moment, as set out in the school's prospectus.

The school's prospectus

Statutory Instruments 1998 No. 2526, School Prospectuses makes clear what schools must put in their prospectuses relative to RE:

7. A statement on the ethos and values of the school.

8. - (1) The affiliations, if any, of the school with a particular religion, or religious denomination.

(2) Without prejudice to paragraph 7 –

(a) particulars of the religious education provided at the school;

(b) a statement that a pupil shall, pursuant to section 389 of the 1996 Act, be excused wholly or partly from attendance at religious worship in the school or from receiving religious education given in the school, or both, if the parent of the pupil so requests; and

(c) particulars of any arrangements as respects the exercise by the parent of a pupil of rights under section 389 of the 1996 Act in relation to the pupil's attendance at religious worship or religious education or both.

At the current time most schools only put into their prospectuses the parental right to withdraw from RE and state that parents ought to contact the headteacher for further clarification. As can be seen this does not go far enough in terms of setting out what would happen to a pupil if withdrawn in part or in full from RE. Naturally such arrangements will change from school to school, depending on size of school, the phase of education being delivered and the resources the school has. The following is one possible paragraph that could appear in a school's prospectus:

Example

Parents have the right to withdraw their child or children from Religious Education, which forms part of the school's basic curriculum. To exercise this right parents are asked to write to the head teacher informing her/him of their desire to exercise the right to withdrawal from RE. The head teacher will invite parents into school to discuss their concerns, clarify the nature of the RE provided by the school and set out the options open to the parents as set out in

education law. In line with South Gloucestershire SACRE's recommendation, where a pupil is withdrawn from RE and they do not take part in alternative religious education they will be supervised by an appropriate member of staff whilst doing work set by their parents which will seek to further their knowledge and understanding of their parents beliefs and values. Parents do not have to give a reason to exercise their right to withdrawal.

The paragraph above will be explained further below in determining how withdrawal is managed and what curriculum work goes on in the time that the pupil is withdrawn.

What happens to pupils who are withdrawn and who provides the work?

When a pupil is withdrawn in whole or in part from RE most schools are able to move the pupil to another venue within the school so that they can be supervised in a context where RE is not happening. Sometimes this is not possible. In very small schools as there may not be anywhere for the pupil to go. In such cases parents should be informed that the pupil will be in the classroom setting but will not be doing RE according to the school's basic curriculum.

When a pupil can be removed from the classroom setting they should be in an area where a qualified member of staff can adequately supervise them. Some secondary schools send pupils to the library, if that happens schools need to ensure that the headteacher knows where the pupil should be, that the librarian understands their role in supervision and that the pupil is able to show a designated member of staff that they have produced work during that time. It is important for schools who use the librarian to supervise pupils withdrawn from RE that this function is contained in their job description and what it entails, that they have received appropriate training and that they are adequately insured. If an incident were to occur during the time of withdrawal it is important to note that the headteacher is responsible for that pupil and what happens to them.

In light of the parliamentary record that the right to withdraw from RE was given as a conscience clause it is SACRE's position that when pupils are withdrawn from RE and alternative arrangements cannot be made for the type of RE the parents desire then it should be made clear that it is the parents who provide materials for their child/children which has clear outcomes and is connected to the faith/philosophy of the parents. SACRE has given the following reasons for its position:

- Schools have the responsibility to provide RE for all pupils and to supervise pupils withdrawn by parents. The time when the pupil is withdrawn is intended for the delivery of the basic curriculum for RE and not the National Curriculum or other aspects of the curriculum such as PSHE or Citizenship in the primary phase.
- That it is clear from parliamentary records that the right to withdrawal is intended as a conscience clause and not as a general opt out clause.
- Schools may undermine the place of RE within their curriculum by allowing pupils to pursue other curriculum options in place of RE and that this would undermine its own responsibility to provide RE as part of its basic curriculum.
- That some parents wish to withdraw their child from RE to give them advantage in another curriculum area, this could be interpreted by other parents as disadvantaging the pupils who are not withdrawn. It may also start

of a trend of withdrawal that might cause problems both for supervision and for timetabling.

Ultimately it is the responsibility of the headteacher in negotiation with the parent to decide what a pupil will do when being supervised at the time of withdrawal but SACRE asks all headteachers to take its advice seriously and apply it wisely.

It is clear, both from Ofsted, the DfES and SACRE that schools cannot provide alternative subject instruction during the time of withdrawal which allows the school or parents to see RE as an option to be taken or opted out of, as it states in the 2002 Education Act:

80 Basic curriculum for every maintained school in England

(1) The curriculum for every maintained school in England shall comprise a basic curriculum which includes-

(a) provision for religious education for all registered pupils at the school (in accordance with such of the provisions of Schedule 19 to the School Standards and Framework Act 1998 (c. 31) as apply in relation to the school),

If the school presents RE as an option it cannot be providing RE for all its registered pupils.

Examples

a) Jenny goes to a small primary school with two teachers. RE happens in both classes at the same time. When her parents withdrew her from RE, they were told that supervision of Jenny during that time would have to be in the classroom. The parents were assured that she would not follow RE as set out in the schools basic curriculum and that work she did would be in accordance with their wishes. If this was not acceptable a parent or their designated person would have to supervise Jenny during that time.

b) Rasheeda goes to a Secondary school and has been withdrawn from RE by her parents. Normally she would go to the library during that time, unfortunately this year there would be no supervision in the library at that time. The school contacts her parents and they agree that she will stay in the lesson but will do work they set during that time. Most of the work is reading from the Quran and working on Islamic education materials that the Head of RE was able to get after talking to the Iqra Trust.

c) Joshua and Miriam are withdrawn from RE in part. Joshua is in KS1 and Miriam in KS2. Their parents have withdrawn them from any RE that is not Christian. When Joshua's class study Hinduism he reads and works on the Bible stories from the Sunshine Books. This reading produces work including art work, comprehension work and discussion work. Miriam does work provided by the Scripture Union when her class is studying Sikhism or Judaism, although she is allowed to do work relating to Old Testament characters. The school meets with the parents at the end of each half-term to show them the RE planning for the next half-term so that the appropriate arrangements can be made. It is also

used as an opportunity to review the previous half-term. During a lesson in Geography on India Miriam's class refer to their work on Sikhism. Miriam should not be withdrawn from this lesson as it is not RE as presented in the school's basic curriculum.

d) John is a Secondary school pupil. John's parents are atheists and clearly state that they do not wish to have RE for their child, either that contained in the schools basic curriculum or an alternative form of RE. They request that their son do extra science during the time of withdrawal. John's parents refuse to be involved in the setting of work that supports their own family's beliefs and philosophy for the period of withdrawal. The school informs the parents that John will not study National Curriculum subjects during his time of withdrawal but that a course in philosophy will be provided for John during that time. Materials provided will be based on the Schools' Philosophy Programme and Humanist publications. As this syllabus do not form part of the school's basic curriculum for RE parents cannot object to the school's action. The work is supervised directly by the Headteacher who assesses the work produced.

Schools should recognise that not all parents will find this easy and therefore might encourage parents to seek support from the faith communities to which they belong or groups like the British Humanist Association if they wish to have a specifically non-religious basic curriculum.

Special Needs Provision

With the exception of certain pupils with severe learning difficulties schools may not disapply pupils from RE. It is clearly set out in Statutory Instruments 1999 No 2212 that:

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18. Arrangements shall be made to secure that, so far as practicable, every pupil attending a maintained special school will attend daily collective worship and receive religious education, or will be withdrawn from attendance at such worship or from receiving such education in accordance with the wishes of his parent.

In the case of Special Schools (SLD) only individual pupils may be disapplied, although the DfES does not encourage this and the Agreed Syllabus takes into account the needs of such pupils. It is sometimes the case that pupils are withdrawn from lessons to provide special needs support, and sometimes this happens during RE lessons. SACRE is clear that if a pupil needs individual special needs support when they are doing RE this should occur in the context of the lesson. If this is not possible then the work done with the pupil outside of the classroom context should focus on the RE being done by their class at the same time.

Examples

a) Sean has considerable learning difficulties and needs to work on reading to improve his access to the curriculum. During Y9 he is time-tabled into the Special Needs suite for support during his RE time. The SENCo meets with the Head of RE to negotiate what topics his class will be studying during Sean's time

in the SN suite. Together they work on a programme that will meet Sean's individual needs without leaving a gap in his religious education.

b) Tina is a Y11 pupil with special needs in the area of English. Her parents wish to withdraw her from RE to do extra English, and they will provide this at home, as her RE lesson is during the last period on a Tuesday afternoon. The school informs the parents that they may withdraw their child from RE but that the time out of RE cannot be used to provide further English. The headteacher also refuses the request to withdraw the pupil from the school premises as Section 71(3)(c) of the School Standards and Framework Act 1998 only allows such withdrawal for the purposes of alternative religious education.

Disapplication of the National Curriculum

The guidance from the DfES is clear in circular 0118/2000:

1. The purpose of disapplication

1.1 Schools incorporate statutory requirements into a wider curriculum that takes into account the starting points and particular needs of their pupils, the distinctive ethos of their school and the characteristics of their community. They engage in ongoing curriculum development, aiming for a better match between provision and pupils' needs in order to raise achievement.

1.2 The revised National Curriculum, implemented from August 2000, emphasises inclusion, aiming to secure learners' participation and ensure appropriate opportunities for them to achieve. Schools have considerable flexibility within the National Curriculum to develop their curriculum appropriately.

1.3 In exceptional cases, the full National Curriculum may not be the most appropriate route to maximising pupils' learning and achievement. Disapplication of the National Curriculum, as described in this guidance, may then be considered.

1.4 Disapplication is permitted, for individual pupils:

- for a temporary period, through regulations under section 365 of the Education Act 1996;
- through a statement of special educational needs, under section 364 of the Education Act 1996; and,

for groups of pupils or the school community:

- to enable curriculum development or experimentation, under section 362 of the Education Act 1996.

1.5 Disapplication may be of all or part of the National Curriculum, including all or part of separate programmes of study and all or part of statutory assessment arrangements. Disapplication is permitted to enable more appropriate curriculum provision to be put in place. Schools should, however, retain pupils' access to as much of the National Curriculum as possible.

1.6 Only National Curriculum programmes of study and assessment arrangements may be disapplied. The National Curriculum at key stages 1 and 2 includes English, mathematics, science, design and technology, information and communication technology, physical education, art and design, geography, history and music. At key stage 1 and 2, statutory assessment arrangements include end of key stage tests (and tasks at key stage 1) and teacher assessments in English, mathematics and science.

1.7 Disapplication may not be extended to other statutory requirements to provide a balanced and broadly based curriculum, religious education and collective worship.

Currently disapplication from the National Curriculum is extremely rare, but at Key Stage 4 there is a real concern that the traditional curriculum is not meeting the needs of pupils and so it is allowing greater flexibility for schools in the planning of the curriculum. Nevertheless the revised guidance (0667/2002) states:

3.3 The subjects that may be disapplied also remain the same. Up to two National Curriculum subjects may be disapplied for any one pupil. For extended work-related learning, design and technology, modern foreign languages and science may be disapplied. For curriculum emphasis and consolidated learning, design and technology and modern foreign languages may be disapplied. Pupils must continue to study all remaining National Curriculum subjects and religious education, careers education and sex education.

Hence, secondary schools have a clear responsibility to look closely at the timetables of those who would benefit from such flexibility and still ensure that those pupils have Religious Education. It is not acceptable that pupils are off site when their class is time tabled RE and neither is it acceptable that the school suggests withdrawal from RE as an option for enabling a pupil to have time outside of school to pursue work related learning. If such a pupil were to be withdrawn then it is SACRE's view that they pursue an alternative RE desired or provided for by the parent.

Example

Sharon has been disapplied from her modern foreign language and Science at KS4 and goes to the local college to pursue a work related course in Leisure and Tourism. Before and after lunch on Thursday she goes to the college for two hours but has to be back for RE in the last period of the day. The college wishes her to be there all afternoon and ask the school for permission for her to stay on. The school declines because it cannot disapply her from RE.

Conclusion

As can be seen from the guidance the issue of parental withdrawal from RE is not simple. Schools need to be clear with parents what constitutes the parental right:

1. an unconditional right to withdraw in whole or in part from the RE provided by the school in its basic curriculum;
2. the right to a specific religious education for their children, either provided by the school, another school, a faith community or themselves in school time.

Schools also need to be clear about the responsibilities laid upon them by statute, their:

- responsibility as part of the basic curriculum to provide RE for all registered pupils;
- responsibility to provide the religious education desired by parents in line with the provisions set out in current legislation and at no cost to the LEA or school;
- responsibility to supervise their pupils adequately and to ensure that any entitlement does not negatively impact on a pupils attendance.

Schools also ought to have a procedure by which parents wishing to withdraw their child/children for RE are given the opportunity to explore what constitutes RE in the schools basic curriculum.

It is hoped that this guidance will help to clarify the issues schools have to face when dealing with this situation.

For further queries: the South Gloucestershire SACRE can be contacted via the Clerk to the SACRE:

*Joanna Wallis
4 Kidney Hill
Westerleigh
BS37 8QY*

0117 9574119

joanna@wallisfamily.plus.com

OR via its serving officer:

*Antony Evans
Learning and Effectiveness Service
Children and Young People's Department
South Gloucestershire Council
Bowling Hill
Chipping Sodbury,
BS37 8QY*

01454 863269

antony.evans@southglos.gov.uk

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