

UPR Submission on the United Kingdom of Great Britain and Northern Ireland 41st session (November 2022)

March 2022

About the National Secular Society

1. This submission is made by the National Secular Society (NSS). The NSS is a not-for profit organisation founded in 1866, funded by its members and by donations. It campaigns for a diverse society where all are free to practise their faith, change it, or to have no faith at all. The NSS advocates separation of religion and state and promotes secularism as the best means of creating a society in which people of all religions or none can live together fairly and cohesively.
2. The NSS has a long history of positive engagement with UN Committees, including the UNHRC, UNCRC and UNCAT. We also have special consultative status with the Economic and Social Council.

Introduction

3. Our work encompasses many areas of human rights. These include equality and non-discrimination, freedom of religion and belief, and freedom of expression.
4. The United Kingdom's last recent periodic review in 2020 by the UNCRC exposed some significant variances between legislation and Government policy, and the UK's Convention obligations. We therefore recommend that the UNHRC's universal periodic review should take note of these variances. We are concerned that the issues raised have not been addressed.

Discrimination on grounds of religion and belief

5. The report of the Working Group on the 2012 UPR urged the UK to "Consider strengthening policies to combat discrimination in all areas, notably in employment and education"¹. However, discrimination is institutionalised throughout the UK's education system due to the prevalence of state funded faith schools and the equality law exemptions granted to them.

¹ UN Ref 66 (Status – accepted, in part)

6. A third of state-funded schools in England and Wales are faith schools. Many of these schools have admissions policies which discriminate on grounds of religion. When voluntary aided faith schools and religious academies are oversubscribed, they are permitted to use religious criteria to give priority in admissions to children, or children of parents, who practise a particular religion. In many cases schools will require evidence of baptism or religious practice from a minister of religion. Such admissions arrangements disadvantage local children whose parents are non-religious or of a different religion to the school's religious designation. Many parents find that because of their lack of religious belief, or choice not to attend religious services, they are unable to send their children to their local state funded school, which is often the most appropriate school for their needs. It is well known in the UK that many parents feign belief and attend services at the local church to qualify their child for attendance in a publicly funded school.

7. There is also compelling evidence that pupils in such schools come disproportionately from middle class backgrounds and that the practice of religious selection therefore results in socio-economic segregation.

8. In minority faith schools, the ethnic make-up is overwhelmingly formed of pupils from predominantly similar ethnic and religious backgrounds. This means that children are often segregated by race and religion, which limits their opportunities to mix with children from different backgrounds.

9. Religious segregation in education is especially acute in Northern Ireland, where most children – around 93% – attend religiously segregated schools. Sectarianism remains a major social problem in Northern Ireland and the practice of segregating children based on their religious denomination is an obstacle to addressing this.

10. Integrated education is extremely popular and the best current hope for the ambition of educating children of all backgrounds together. Despite being on the political agenda for decades, progress has been painfully and unacceptably slow.

11. We recommend that the UK government(s) eliminate religious selection in admissions procedures to publicly funded schools and works towards a fully secular public education system.

12. We recommend that the UK makes a commitment to phase out religiously segregated publicly funded schools in Northern Ireland and expand provision of integrated/secular schools within a defined and reasonable timeframe not exceeding five years.

13. Faith schools across the UK are also permitted to discriminate against teachers on grounds of religion and belief. Notably, legislation in England and Wales does not limit this discrimination to where a genuine occupational requirement can be established, and therefore can be applied to all positions in some religious schools. This

significantly limits the career opportunities of teachers who are not of the faith of these schools.

14. We recommend that legislation be amended to end religious discrimination in employment in publicly funded schools – or at least limited to situations where a genuine occupational requirement can be demonstrated.

Discrimination on grounds of caste

15. In 2012, following a UK Government-commissioned study² finding “those of low caste in Britain numbered “50,000 to 200,000 or more” in Britain and “evidence suggesting discrimination” in “work... provision of services and education”, the Universal Periodic Review (UPR) recommended that the UK “put in practice a national strategy to eliminate discrimination against caste”. The Equality Act 2010 made provision for secondary legislation to prohibit caste discrimination. However, the Government has declined to implement this, declaring that the matter can be addressed by case law.

16. In 2016, the Committee on the Elimination of Racial Discrimination (CERD) recommend that the UK should “Invoke Section 9(5)(a) of the Equality Act 2010 [enabling caste to become a protected characteristic] without further delay to ensure that caste-based discrimination is explicitly prohibited under law and that victims of this form of discrimination have access to effective remedies, taking into account the Committee’s general recommendation No. 29 (2002) on descent.”³

17. In 2018, the Government confirmed that it does not intend to follow CERD’s recommendation and has committed to repealing the enabling provision. This would amount to a regression of equality law.⁴ At present, the relevant case law (Tirkey v. Chandok) solely consists of a tenuous decision of the Employment Appeal Tribunal that caste discrimination could in some circumstances be considered race discrimination⁵. We do not consider this an adequate response. Government claims that protection should be provided through the evolution of case law, are questionable. Such evolution may never happen. On the other hand, it has refused every call from Parliament and the UN to pass legislation.

18. We recommend the UK legislate to implement its international obligations in respect of caste, in line with its human rights obligations, as recommended by the UN.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/85522/caste-discrimination.pdf

³ http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/GBR/CERD_C_GBR_CO_21-23_24985_E.pdf 21st to 23rd periodic reports (CERD/C/GBR/CO/21-23) Paragraph 8(a). Accessed 22 March 2022.

⁴ <https://commonslibrary.parliament.uk/research-briefings/sn06862/>

⁵ Chandhok & Anor v Tirkey [2014] UKEAT 0190_14_1912

Freedom of religion, thought and conscience

19. The Committee on the Rights of the Child stated in its concluding observations on the fifth periodic report of the UK: *“The Committee recommends that the State party repeal legal provisions for compulsory attendance at collective worship in publicly funded schools and ensure that children can independently exercise the right to withdraw from religious worship at school.”*⁶ Unfortunately, there has been little progress in this area.

20. In the UK, education is a devolved matter, with each of the countries of the UK having separate systems. England, Northern Ireland and Wales are the only countries in the world to require by law a daily act of mainly Christian worship in every publicly funded school, in which pupils are required by law to “take part”, not simply to attend. Scottish legislation also imposes a statutory duty on local authorities to provide religious observance in Scottish schools.

21. As the UNCRC noted, children do not have the right to withdraw from such worship without parental permission before entering the sixth form (ages 16-18). In Northern Ireland and Scotland, no pupils (irrespective of age) have the right to withdraw from acts of collective worship without parental permission.

22. A private member's bill introduced in 2021 to replace mandatory collective worship with inclusive assemblies in non-faith schools in England was not supported by the UK government.

23. In most cases, school communities are made up pupils from a variety of religion and belief backgrounds. Many have no religion. Even with limited withdrawal rights, requiring acts of “broadly Christian” worship, in which pupils by law are required to “take part”, undermines young people’s freedom of religion or belief. It also usurps parental rights in this area because parents are reluctant to exercise the right to withdrawal, as they do not wish their child to be stigmatised or excluded from communal school activities.

24. We recommend that the UK:

a) repeal legal provisions for compulsory collective worship in state-funded schools.

⁶ United Nations Committee on the Rights of the Child, ‘Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland’. 12 July 2016
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/GBR/CO/5&Lang=En
<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhskHOj6VpDS%2f%2fJgg2Jxb9gncnUyUgbnuttBweOlylfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxij3uZ0bjQBOLNTNvQ9fUIEOvA5LtW0GL> Accessed 17 March 2022.

b) ensure that children can independently exercise the right to withdraw from any acts of religious worship at school and that this right be formally drawn to the attention of parents and pupils every school year

c) ensure that all aspects of the school curriculum, including assemblies, are respectful and inclusive of all pupils, regardless of their religion or belief, including non-belief.

25. Many children across the UK are effectively forced into a faith-based education due to the high proportion of faith schools and lack of secular provision. Our own research has estimated that three in ten families (30%) in England live in areas where the option of a non-faith primary school is highly or extremely restricted and that for secondary schools it is one in ten (10%).⁷ This means thousands of families are being denied access to appropriate schools for their children.

26. The inability of families to secure a secular education is a serious infringement of both pupils' and parents' freedom of religion or belief.

27. We recommend that all UK government(s) take steps to ensure that all families have reasonable access to a secular (non-faith-based) school and that this is formalised as a legally justiciable entitlement.

Right to education

28. In 2012 the UK supported the UPR recommendation to "Adopt a strategy so that children of vulnerable groups are not excluded from the education system".

29. In the UK many children are not educated in the mainstream school system. There is no register of children who are home educated, making it difficult for local authorities to know how many children do not attend a legally registered school. This makes it impossible to ensure every child's right to an education is being respected and protected.

30. Some parents from minority religious backgrounds (usually Orthodox Jewish and Muslim but also some Christian sects) choose not to send their children to school for religious reasons. Many of the children are home educated. Others attend illegal unregistered schools, sometimes under the guise of claiming they are being home educated. There is no way of knowing whether they are educated at all.

31. Many of these schools operate according to the tenets of fundamentalist religion and the curriculum is mostly or wholly religious in nature. Proprietors of such 'schools' choose not to follow the law requiring registration so they can avoid oversight from the Department for Education, and hence avoid regulations that may conflict with their religious teachings.

⁷ <https://www.secularism.org.uk/faith-schools/choicedelusion.html>

32. In recent years, there has been some progress in tackling illegal unregistered schools. According to the school inspectorate Ofsted, over 100 unregistered religious schools were investigated in England between January 2016 and August 2019⁸. To date there have only been five successful prosecutions for running unregistered schools. Following the second prosecution, HM Chief Inspector Amanda Spielman said she was “concerned that this case is just the tip of the iceberg.” She has called for Ofsted to have stronger investigatory powers and for the government to tighten the legal definition of a school.

33. Because they lack oversight, unregistered ‘schools’ fail to conform with school standards, particularly in the areas of safety, health, suitability of staff and quality of education. Pupils are often systematically undereducated in secular studies, leaving them at risk and woefully unprepared for the outside world.

34. Since the pandemic, there have been reports that many more children have disappeared from the education system. The Government has stated they intend to create a mandatory register of home educated children.⁹ This is a welcome step toward ensuring the rights of children to an education.

35. We recommend that the UK develops a robust strategy for protecting the rights of children to an education, including:

- a) instituting a system to ensure it has accurate information about where every child is being educated,
- b) introducing law to require regularly reporting on the number of children missing from the formal education system, and to take investigative steps where children are unaccounted for, and
- c) closing down illegal schools and prosecuting offenders where appropriate.

36. In its concluding observations of the fifth periodic report of the UK, the Committee on the Rights of the Child recommended that the state party ensure “that meaningful sexual and reproductive health education is part of the mandatory school curriculum for all schools”.¹⁰

37. In Northern Ireland, schools are required to develop a curriculum for relationships and sex education based on their religious ethos. Provision is extremely unequal and often organised to promote religious interests and views, rather than provide a comprehensive, rights-based education for pupils. In 2019, research by the Belfast Youth Forum found that only 66% of respondents had actually received RSE in

⁸ Ofsted, ‘Unregistered schools management information’, last updated 16 September 2020.

<https://www.gov.uk/government/statistical-data-sets/unregistered-schools-management-information>
Accessed 14 October 2020. Accessed 18 March 2022.

⁹ <https://inews.co.uk/news/education/government-legislation-register-homeschooled-children-england-1438067>

¹⁰ United Nations Committee on the Rights of the Child, ‘Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland’. 12 July 2016

school, and 60% of young people felt that the information they received was either 'not very useful' or 'not useful at all'.¹¹ Research has consistently found extremely poor coverage of LGBTQ issues, contraception and reproductive options in schools. The Department for Communities' expert panel on a gender equality described RSE in schools as "inconsistent and insufficient"¹². The Department's expert panel on sexual orientation also advised that RSE should not be "dependent on school ethos". The children's commissioner, Koulla Yiasouma has warned of a "systemic failure" to address RSE and called for a compulsory RSE curriculum similar to other school subjects in the province.¹³

38. There has been some progress in this area in Britain. As of September 2020, Relationships Education is compulsory in all primary schools in England, and Relationships and Sex Education (RSE) is compulsory in all secondary schools. RSE is also statutory in Scotland and part of the new curriculum being implemented in Wales.

39. However, the NSS is concerned that RSE provision will not be consistent across all schools. Government guidance says that "schools with a religious character may teach the distinctive faith perspective on relationships", and that they "may wish to reflect on faith teachings about certain topics as well as how their faith institutions may support people in matters of relationships and sex."¹⁴

40. We have reason to believe many faith schools interpret this as a licence to teach distorted and biased information about sex and relationships. An NSS 2018 report, *Unsafe Sex Education: The risk of letting religious schools teach within the tenets of their faith*, found that 77% of state-funded faith schools were teaching RSE in accordance with religious scripture. The study found many faith schools explicitly teaching that abortion, effective forms of contraception, sex outside of marriage, same sex relationships and masturbation are morally wrong and should be avoided. Some faith schools were also teaching taboos around menstruation.¹⁵ A Catholic school in England was forced by the Catholic archdiocese of Southwark to retract an invitation to a gay author to speak at a school¹⁶.

¹¹ Belfast City Council, Any Use? Young people's opinions on Relationships and Sexuality Education (RSE) in Belfast. <https://www.belfastcity.gov.uk/documents/youth-forum/any-use-report> Accessed 24 March 2022

¹² <https://sluggerotoole.com/2022/01/28/its-time-for-rse-reform/>

¹³ Sacpa, sex education in northern Irish schools 'inadequate', says commissioner <https://www.sacpa.org.uk/2022/01/31/sex-education-in-northern-irish-schools-inadequate-says-commissioner/#:~:text=Koulla%20Yiasouma%20told%20MLAs%20there,schools%2C%20colleges%20and%20public%20buildings> Accessed 24 March 2022

¹⁴ Department for Education, 'Relationships Education, Relationships and Sex Education (RSE) and Health Education' 2019. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/908013/Relationships_Education_Relationships_and_Sex_Education_RSE_and_Health_Education.pdf. Accessed 21 March 2022.

¹⁵ National Secular Society, 'Unsafe sex: The risk of letting religious schools teach within the tenets of their faith'. April 2018. www.secularism.org.uk/uploads/unsafe-sex-report-april-2018.pdf

¹⁶ <https://inews.co.uk/news/mp-john-fisher-school-catholic-southwark-archdioceses-cancelling-gay-author-visit-simon-james-green-1516524>

41. Additionally, the government guidance says in all schools, “when teaching these subjects, the religious background of all pupils must be taken into account when planning teaching, so that the topics that are included in the core content in this guidance are appropriately handled.”¹⁷

42. This creates an unreasonable expectation that faith-based opposition to teaching elements of RSE, including same-sex relationships, may be accommodated. This extends to nonreligious schools that happen to have high numbers of children from conservative religious backgrounds.

43. The government’s implication that nonreligious schools must modify their RSE curriculum to comply with the wishes of religious parents undermines the secular ethos of such schools. It also prioritises the faith-based desires of parents over the education and welfare needs of children.

44. Furthermore, parents have the right to withdraw their children from sex education lessons, regardless of the wishes of the child. Parents who wish to ‘shield’ their children from necessary information about sex and relationships for religious reasons are those most likely to use the right of withdrawal. This will leave behind children from conservative religious backgrounds, who most need impartial, appropriate education in this area.

45. *We recommend that the UK be asked to demonstrate concrete measures to ensure that age-appropriate sex education is being impartially and comprehensively taught in all schools and that the law be changed so that in all schools there is no legal right to parental opt-out of sex and relationships education.*

Protection of children

46. In its concluding observations on the fifth periodic report of the UK, the Committee on the Rights of the Child expressed concerns regarding “recent allegations of widespread child sexual exploitation and abuse by high profile figures, by organized gangs and in institutional settings”, in addition to “the low rate of prosecution of child sexual exploitation and abuse”¹⁸.

47. The Independent Inquiry into Child Sexual Abuse in England & Wales (IICSA) is nearing completion in the UK. IICSA’s numerous strands include residential schools and

¹⁷ Department for Education, ‘Relationships Education, Relationships and Sex Education (RSE) and Health Education’ 2019.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/908013/Relationships_Education_Relationships_and_Sex_Education_RSE_and_Health_Education.pdf.
Accessed 21 March 2022.

¹⁸ United Nations Committee on the Rights of the Child, ‘Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland’. 12 July 2016
<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhskHOj6VpDS%2f%2fJqg2Jxb9gncnUyUgbnuttBweOlylfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxij3uZ0bjQBOLNTNvQ9fUIEOvA5LtW0G> Accessed 21 March 2022

religious organisations¹⁹. Most victims of religious institutions to come forward have been victims of the Church of England²⁰ and the Catholic Church²¹ (and in Scotland ²²²³, and Northern Ireland^{24 25} but the number of victim witnesses from the Catholic Church, Jehovah's Witnesses, Islam and Judaism appeared to be disproportionately large relative to the level of adherence to those faiths and denominations in England and Wales. We acknowledge that much of the evidence of systemic abuse found so far predates the UK's ratification of the Convention in 1991.

48. Analyses of evidence from witnesses confirms that suspicions of child sexual abuse in religious settings, relative to such abuse in other settings, are less likely to be reported to the police, and much more likely to be reported to the religious organisation. Such internal reporting was often largely ignored and rarely prompted reporting of credible allegations to civil authorities. Interim reports from IICSA have revealed a pattern of religious groups prioritising the protection of their reputation over the welfare of children. Relative to abuse in other settings, victims are much more likely to be male and are much more likely to be gay males.²⁶

49. Currently, neither England, Wales nor Scotland have any mandatory reporting law (Northern Ireland has a broader mandatory reporting law for serious offences but not a specific requirement to report child abuse). This makes them outliers compared to the 86-90% of European and American countries in which some form of mandatory reporting exists²⁷. Many victims' advocates at IICSA have called for mandatory reporting.²⁸

50. *We recommend that the UK introduce a law requiring persons in a position of trust and authority to report reasonable suspicions of child abuse.*

51. In its concluding observations on the fifth periodic report of the UK, the Committee on the Rights of the Child recommended that the UK ensure "that no one is

¹⁹ <https://www.iicsa.org.uk/reports-recommendations/publications/investigation/cp-religious-organisations-settings>

²⁰ <https://www.iicsa.org.uk/reports-recommendations/publications/investigation/anglican-church>

²¹ <https://www.iicsa.org.uk/reports-recommendations/publications/investigation/roman-catholic-church>

²² <https://www.childabuseinquiry.scot/news/scottish-child-abuse-inquiry-publishes-fifth-case-study-findings/>

²³ <https://www.childabuseinquiry.scot/news/scottish-child-abuse-inquiry-publishes-fourth-case-study-findings/>

²⁴ <https://www.hiainquiry.org/sites/hiainquiry/files/media-files/Chapter%203%20-%20Findings.pdf>

²⁵ <https://www.hiainquiry.org/sites/hiainquiry/files/media-files/Chapter%204%20-%20Recommendations.pdf>

²⁶ <https://www.iicsa.org.uk/key-documents/11687/view/truth-project-thematic-report-child-sexual-abuse-context-religious-institutions.pdf> page 19

²⁷ Mandate Now, 'More than 200,000 people call for mandatory reporting of child abuse.' 2 December 2015 <http://mandatenow.org.uk/more-than-200000-people-call-for-mandatory-reporting-of-child-abuse/> Accessed 22 March 2022 .

²⁸ ICSA, 'The Anglican Church Investigation Report'. October 2020, para 30. <https://www.iicsa.org.uk/key-documents/22519/view/anglican-church-investigation-report-6-october-2020.pdf> Accessed 22 March 2022.

subjected to unnecessary medical or surgical treatment during infancy or childhood” and “guarantee bodily integrity”.²⁹

52. These recommendations were made with reference to female genital mutilation (FGM) and medically unnecessary surgeries on intersex children. While the NSS agrees that unnecessary genital cutting on female and intersex children violates their rights and should be outlawed, we urge the Committee to extend its scrutiny to children who are subjected to non-therapeutic penile circumcision.

53. Boys born into communities that practise circumcision are not being protected from the unrestricted expression of their parents’ beliefs regarding their most intimate body parts. Male children born into these communities are having their genitals surgically altered, often without anaesthetic without their consent, in accordance with their parents’ or communities’ belief system.

54. Those boys on whom medically unnecessary genital cutting has been performed will permanently lose a large part of their normal penis (approximately one third of the covering of the adult penis). The penile prepuce is one of the most sensitive parts of a man’s body, providing numerous functions in intact men and boys. Healthy intact men rarely choose to lose this part of their anatomy and when they do, often regret it.

55. In the UK in 2015, Sir James Munby, then the most senior judge in the family division of the High Court of England and Wales, noted the disparity in protection between boys and girls. In his judgment Munby stated that non-therapeutic male circumcision of children constitutes ‘significant harm’ under the terms of the Children Act and noted that some forms of FGM, which would be illegal under the 2003 FGM legislation, cause considerably less harm to children than non-therapeutic male circumcision which he noted society still seemed willing to accept.³⁰ It is notable in this regard that section 1(5) of the FGM legislation expressly forbids custom or ritual as a mitigating factor when considering non-therapeutic cutting of a female child’s genitals.³¹

56. *We recommend that the UK take steps to guarantee protections from non-therapeutic genital cutting for all children equally, regardless of sex.*

²⁹ United Nations Committee on the Rights of the Child, ‘Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland’. 12 July 2016 <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhskHOj6VpDS%2f%2fJgg2Jxb9gncnUyUgbnuttBweOlylfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxij3uZ0bjQBOLNTNvQ9fUIEOvA5ltW0G> Accessed 22 March 2022.

³⁰ *Re B and G (Children)* (No 2) [2015] EWFC 3 https://www.familylaw.co.uk/news_and_comment/re-b-and-g-children-no-2-2015-ewfc-3

³¹ Female Genital Mutilation Act 2003, Section 1(5) <https://www.legislation.gov.uk/ukpga/2003/31/section/1> Accessed 22 March 2022