

# The state must act to protect children in unregistered faith schools

Posted: Thu, 28 May 2020 by [Richard Scorer](#)

*Eye-opening evidence at a public inquiry has shown the dangers presented by unregistered schools. Richard Scorer, a lawyer at the inquiry, says the authorities mustn't leave children to languish in unsafe environments.*

Last week the Independent Inquiry into Child Sexual Abuse (IICSA) [turned its attention](#) to unregistered schools. As many unregistered schools claim to have a religious ethos, IICSA is examining this issue as part of its investigation into child sexual abuse within "religious organisations and settings". This investigation relates mainly to minority religious groups: Jewish, Muslim, Hindu, Sikh, Jehovah's Witnesses and independent Christian denominations. The Catholic and Anglican churches have been examined by IICSA in separate hearings.

The inquiry heard from Amanda Spielman, the head of Ofsted (*pictured*). Understandably, discussion of unregistered schools has tended to focus on their educational failings. But as this is a child abuse inquiry, Spielman's evidence was directed at the potential risks of sexual, physical and emotional harm to children in these settings.

As Spielman explained, Ofsted has conducted multiple inspections of unregistered schools including, for example, in the Charedi (ultra-Orthodox Jewish) and Muslim communities. Inspectors identified significant safeguarding and health and safety concerns. Examples included settings where:

- Inspectors were unable to confirm that DBS checks had been carried out on individuals working on the premises.
- There were hazardous systems of record keeping about individuals working there.
- There were problems with the physical security of premises - inspectors discovered that they were able to enter premises unchallenged.
- There were serious issues with fire safety.
- There were serious issues with the physical safety of children. In one setting inspectors encountered "multiple broken and shattered windows, with jagged edges within touching distance of children; electrical plugs and sockets in a state of disrepair, with exposed wires in touching distance of children; broken or missing door handles with sharp metal edges exposed to children; and an uninsulated and extremely hot water heater with an exposed flame in the entrance area to the main building". Elsewhere, a classroom portacabin elevated on the flat roof of a single storey building and had "open holes in the floor down to ground level". In a third setting, inspectors found "tiles, broken windows and loose electrical wires".
- Inspectors observed inadequate hygiene standards: toilet facilities were unclean and in one setting the kitchen used to prepare children's meals was dirty and unhygienic. During one inspection, an inspector was injured and required hospital treatment. Doors to the food preparation area were "not locked, giving children access to sharp knives". Some vermin bait traps were "placed in classrooms with their lids open, with the poison they contained clearly visible".
- Staff had not undertaken any safeguarding training.
- Child protection policies were either non-existent or inadequate and were "not effective in

keeping children safe".

- Physical chastisement of children was the norm in some schools.
- Schools were using inappropriate behaviour management strategies for children.
- In a Christian unregistered school, it transpired that the proprietor had been dismissed from a local school following an assault on a pupil, and was prohibited from teaching due to the assault. The individual concerned was "verbally aggressive towards inspectors. He accused inspectors of being racist towards the setting because the pupils attending were not white".

Clearly, it is unacceptable that any child should experience 'education' in such an environment. But equally scandalous is the seeming inability of agencies tasked with public protection to tackle this problem effectively. In many of the above instances Ofsted tried to get other relevant agencies to intervene: local authorities, the Health and Safety Executive (HSE), the fire brigade and the police. However little effective action was taken. Ofsted's view is that "this is in part due to a lack of available powers. However where organisations have relevant powers, they have sometimes been reluctant to use them."

Local authorities, meanwhile, have expressed the view that their powers to intervene are limited: for example, that they are unable to intervene to protect children in such settings unless there are specific concerns about abuse or neglect of an identified child; or that whilst they have a general duty to safeguard and promote the welfare of children, they are unable to see children simply in order to monitor their education. Ofsted reported that in response to health and safety concerns about one setting, both the HSE and the local authority initially said they did not have the power to intervene as "they believed that the setting was operating as an educational establishment". Meanwhile Ofsted's own power to take action comes up against a fundamental – and many would say extraordinary – loophole in the law: "establishments offering only a narrow or religious curriculum are not required to register as schools even where they are providing full time education".

Clearly, regulation of these entities is falling between lots of different stools. But even where owners have been prosecuted for operating illegal unregistered schools, the penalties are limited: as pointed out by one of my clients in IICSA, Sadia Hameed of Gloucestershire Sisters, fines are very modest, typically only a few hundred pounds. The result is that individuals who are convicted of operating illegal unregistered schools frequently resurface at a later date and recreate schools which were thought to have been closed down. Whatever the specific reasons for inaction in particular cases, it seems very clear that significant loopholes in the law are enabling unscrupulous individuals to operate unregistered schools without legal consequences.

Not all unregistered schools are religious, but many are. This issue therefore raises a broader question: to what extent should the state interfere in, or seek to regulate, activities associated with the practice of religion? In the UK, state interference in religious activity is minimal: as counsel to IICSA observed in one of the sessions last week, donkey sanctuaries are more heavily regulated. On one level, this is how it should be: religious freedom is a fundamental human right, and the state obviously has no business in telling people what to believe, and whether and how they should worship.

However, religious activities do not simply involve consenting adults; they often involve children. Indeed, few religious activities do *not* involve children. If children in religious settings are at risk of harm, the state has a legitimate right to interfere in such settings insofar as is necessary to protect them.

The issue is brought into sharp relief by the unwillingness of many religious fundamentalists to accept secular norms and laws regarding children. Recently we learned of a document entitled

"Pamphlet: Encouragement to Teachers and Guidance for Parents" produced by leading Charedi Jewish Rabbis, including several affiliated to the Union of Orthodox Hebrew Congregations (UOHC), an umbrella body which is represented in IISCA as a core participant.

This document explicitly advocates corporal punishment and the importance of fear and submission in education. As Ofsted noted, "some of the signatories to the document are believed to be serving head teachers or teachers at Charedi schools and unregistered yeshivas". The document confirms that even though corporal punishment in schools was ruled unlawful many years ago, it is still being actively promoted by religious leaders today. Where religious leaders explicitly reject laws and reasonable societal expectations around treatment of children, the need for state intervention is even starker.

So the dangers of unregistered schools highlight the need for stronger regulation in this area. But they also yet again highlight broader issues about child protection in religious settings, which have become a familiar theme during IICSA's hearings. In its eventual recommendations, the inquiry will need to address these head-on. We mustn't leave children to languish in unsafe environments out of fear of confronting religious interests.

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