

Written evidence to consultation on out-of- school education settings: registration and inspection

11 January 2016

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Consultation document:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/480133/out_of_school_education_settings_call_for_evidence.pdf

About the National Secular Society

1. This submission is made by the National Secular Society (NSS). The NSS is a not-for-profit non-governmental organisation founded in 1866, funded by its members and by donations. We advocate for separation of religion and state and promote secularism as the best means of creating a society in which people of all religions and none can live together fairly and cohesively. We seek a diverse society where all are free to practise their faith, change it, or to have no faith at all. We uphold the universality of individual Human Rights, which should never be overridden on the grounds of religion, tradition or culture.

Summary

2. We welcome the Government's proposal to safeguard children and young people from harm, including extremism – however we stress that any response should be proportionate, evidence-based and be focused through the lens of safeguarding rather than security. We also reiterate the need to strengthen and empower civil society responses to extremism and sectarianism.
3. We support proposals to develop a mechanism for registering and inspecting education settings providing intensive tuition, training or instruction to children outside of school. In doing so we welcome the Government's willingness to balance parental rights and religious freedom against children and young people's independent rights and societal interests.

Evidence of need

4. We first raised concerns about supplementary schools with the Government in 2011 when we urged it to take steps necessary to tackle what we regard as a deeply disturbing and growing problem of child abuse at some British madrassas.

5. Our letter to the then Children and Families Minister, Tim Loughton MP, cited a BBC Radio 4 *File on 4* investigation which revealed that over 400 allegations of physical abuse (and 30 of sexual abuse) had been made at Britain's madrassas in the preceding three years.¹
6. The BBC's research revealed 37 alleged offences in Lancashire alone, where examples of physical abuse allegations, provided by the police, included a 6-year-old child being hit and kicked in the leg and face by a teacher at their local mosque; an 8-year-old being punched in the back several times by a mosque teacher after making mistakes with his studies; an eight year old having his head pulled back by his hair and being ordered to pray louder by a mosque teacher; and a madrassa student teacher pulling a 9-year-old child's hair and slapping the victim's face while making the child crouch down and hold his ears with his arms under his legs for 'not learning his lines and talking in class'.
7. Of the 30 allegations of sexual assaults, three led to prosecutions and one to a conviction. However, as teachers in supplementary schools need not be subject to criminal record checks, those convicted of sex offences can carry on working in madrassas. The *File on 4* investigation found at least one example of a sexual offender teaching the Quran in a madrassa who was found guilty of an indecent assault against a child.
8. In addition, Mohammed Hanif Khan, who was imprisoned in 2009 for raping a 12-year-old boy and sexually assaulting a 15-year-old at his mosque, was employed as an imam and teacher in Stoke-on-Trent despite previous proven allegations of sexual harassment which led to him being removed from the job of prison chaplain he held directly before being employed by the mosque.
9. During sentencing, judge Mrs Justice Dobbs described Mr Khan as "a serious risk to the public". Yet he was still allowed to teach young boys in a supplementary school setting. According to Justice Dobbs, it was the boys, rather than the imam, that were "reviled by the community for bringing shame on the community."²
10. As disturbing as these figures are, a senior prosecutor told the BBC that they were likely to represent only the 'tip of an iceberg' as there is almost certainly significant under-reporting in this area. Clerics are often highly revered in their communities and the close-knit and insular nature of many communities makes reporting difficult. Nazir Afzal, the chief crown prosecutor for the North West of England, has commented that the BBC's figures represented "a significant underestimate".
11. This is borne out by a recurring theme of the programme: the suppression of complaints whether by direct threats to mosque attendees or a culture of them protecting the mosque at all costs. We very much welcome the acknowledgement in the consultation document that safeguarding children and protecting them from harm is everyone's responsibility. A civil-society response must be encouraged and a system of regulation would empower communities to respond in a way that is not currently possible.
12. Evidence of physical assault in out-of-school education settings was also uncovered by Channel 4's *Dispatches: Lessons in Hate and Violence* documentary³ which provided evidence of madrassa pupils being routinely kicked and hit.

¹ *File on 4: Madrassas*. First broadcast 18 October 2011 <http://www.bbc.co.uk/programmes/b015zpf1>

² <http://www.yorkshirepost.co.uk/news/crime/muslim-cleric-from-sheffield-jailed-for-raping-young-boy-1-3197025>

³ first screened on 14 February 2011.

13. *Dispatches* also highlighted the problem of hate preaching – children and young people being taught a hard line, intolerant brand of Islam which promotes religious apartheid and disrespect for other faiths and beliefs, with non-Muslims referred to as the 'kuffar', a highly derogatory Arabic term for "nonbelievers". This is the same dehumanising rhetoric used by young boy with a British accent in a recent propaganda video released by the Islamic State threatening terrorist acts against the United Kingdom.
14. We are deeply concerned that a fear of offending religious or cultural sensibilities has stymied Government action on this issue thus far. We reiterate the comments of Ann Cryer, the former Member of Parliament for Keighley who warned as far back as 2006 that "failing to protect the children in madrassas because of 'cultural sensitivities' is nonsense."⁴
15. It was also in 2006 that The Muslim Parliament of Great Britain first urged the Government to establish a national registration scheme for madrassas, coordinated centrally and monitored by local authorities. At the time, Ghayasuddin Siddiqui, founder of the Muslim Institute and co-author of the Child Protection in UK Madrassas report, said: "If nothing is done now we may face an avalanche of child sex-abuse scandals, decades afterwards, similar to those that rocked the Roman Catholic Church".
16. With the number of madrassas growing rapidly, we believe this is an issue which needs to be addressed urgently by the Government. Whilst there are an estimated 2,000–3,000 madrassas operating in the UK there appears to be no hard data on how many madrassas actually exist, who runs them or what they teach.
17. Many Islamic supplementary schools are attached to mosques. With just under a half of British mosques are under the control of the ultra-conservative Deobandi movement and a further 6% estimated to be influenced by Saudi Arabia's Wahhabism, the potential for such out-of-school educational settings promoting extremism is significant and something that the state can no longer ignore.
18. Whilst the evidence we have seen points to a particular problem with Islamic out-of-school settings, it is clear that no faith or belief group has a monopoly on child abuse or extremism. Other faith-based settings, such as Charedi schools, for example, also have the clear potential to incubate divisions and indoctrinate children with views that run counter to British values rooted in human rights.
19. Children and young people have a fundamental right to be protected from harm. Article 4 of the Convention on the Rights of the Child (Protection of rights) places a duty on governments to take all available measures to make sure children's rights are respected, protected and fulfilled.
20. It is clear that the current legal situation leaves children in out-of-school settings without sufficient protection.

Thresholds

21. We agree that wherever children access learning they should be safe. In some contexts (such as music lessons or sporting activities) it would be superfluous, bordering on ridiculous, to insist that out-of-school educational settings must "prepare children for life in modern Britain" – although no provider should be actively undermining British values. However, the

⁴ <http://news.bbc.co.uk/1/hi/uk/4831184.stm>

closer such settings get to the appearance of schools, the more reasonable the expectation becomes.

22. We therefore agree that out-of-school educational settings at which children spend a significant amount of time should be subject to similar regulatory standards as independent schools. It should be noted that in many cases out-of-school educational settings may be the sole provider of education for some children. Rather than being 'supplementary' to a child's mainstream education, such settings could effectively be their only experience of formal learning, particularly in families that have opted to provide home education. The Government may wish to investigate the overlap between home schooling and supplementary schooling.
23. Whilst we consider the threshold of six hours to be both reasonable and proportionate, we remain concerned that some out-of-school educational settings could cut the time they claim to teach with the sole purpose of avoiding the necessity to register or face any form of regulation. We would therefore welcome a mechanism for ensuring that any out-of-school education provider could face inspection where specific concerns are raised, regardless of how many hours children are attending.

Registration and inspecting

24. We welcome the implicit recognition that a process of voluntary self-regulation would be inadequate to properly safeguard children, including protecting them from the harm caused by extremism.
25. We welcome the proposal to require all out-of-school educational settings offering 'intuitive tuition' to register with a statutory body.
26. We urge the Government to ensure that all children and young people are accounted for in terms of the education they are being provided. Local authorities have a legal duty to safeguard children but cannot do so if they do not know where they are being educated. An improved reporting mechanism would also allow local authorities to make more consistent use of their existing statutory powers in this area.
27. The DfE has for many years been aware of the thousand or so 'missing' boys from Jewish backgrounds in Hackney, who, instead of receiving a broad and balanced education, are attending often unregistered 'yeshivas' where secular education is neglected and the curriculum is entirely religious.
28. Education is a fundamental human right and essential for the exercise of all other human rights. There should be no children 'missing' from education in Britain. The state has a legitimate interest in ensuring all children and young people, irrespective of their religious or cultural background, receive a suitable education. We urge the Government to ensure that all children and young people receive an appropriate education, as is their right under the Convention of the Rights of the Child, to which the UK is a signatory.
29. We welcome the Government's intention to make the registration scheme light-touch to minimise 'red tape' and administrative burdens on what will in many cases be sparsely resourced voluntary organisations.
30. Given the evidence we have highlighted concerning madrassas there is an argument for a more targeted response to address this specific problem area. Such an approach could

include additional reporting requirements on mosques and madrassas including a statement on religious denomination, size of classes and language of instruction and information on teaching personnel. However, to focus in this way on madrassas would appear discriminatory, may serve to perpetuate a 'victim narrative' and could also reinforce unhelpful stereotypes.

31. A 'securitised' approach to the inspection of madrassas may lead to mistrust of Government intervention which could in turn perpetuate a 'code of silence' around serious issues and discourage members of the community from speaking out about concerns. Any specific inspections of madrassas should be primarily based on specific concerns and draw on best practice of multi-agency safeguarding interventions.
32. Arguably, madrassas may have the potential to positively influence Muslim children's development, improving their religious literacy, better equipping them to counter radical views and challenge extremism in their communities.
33. However, where madrassas are controlled by religiously conservative imams who, as Quilliam have put it, are "physically in Britain, but psychologically in Pakistan or Bangladesh"⁵, madrasa tuition can amount to the teaching of intolerance, completely at odds with British values, causing irreparable damage to the minds of young British Muslims and to wider society.
34. Greater effort must therefore be made to encourage British Muslims to recognise and take the issue of potential abuse of children at madrassas seriously – and challenge extremism as citizens rather than as Muslims. Alongside mandatory registration of out-of-school educational providers, assistance should be provided by local authorities and government agencies to all providers, and particularly madrassas, to encourage best practice and put in place transparent and accountable policies and procedures to ensure the safety and well-being of children. As Dr Shaaz Mahboob of British Muslims for Secular Democracy has stated: "The community and local authorities should work together to ensure the safety of children at Islamic religious institutions".⁶ Where appropriate and where it would act to strengthen civil society responses to sectarianism, the Government should consider working with reputable NGOs and umbrella organisations to facilitate registration and the sharing of good practice.
35. We welcome plans to ensure that information on providers is publicly available and easily accessible. The mechanism for raising concerns should also be clearly signposted. A robust civil-society response to eliminate all forms of extremism should be encouraged and a clear system of regulation by a body, which is and is seen to be independent, would empower communities to report welfare concerns, including concerns about extremist teaching where they have them.
36. We agree that a risk-based approach rather than routine inspections would be proportionate. The sampling of particular settings also seems sensible.

⁵ <http://www.quilliamfoundation.org/press/press-release-quilliam-think-tank-conducts-first-national-poll-of-britains-mosques/>

⁶ http://www.muslimparliament.org.uk/Childprotect_TheVoice.html

Prohibited activities

37. We welcome the Government's expectation that all settings providing services to children act in the best interests of children and provide high quality services in a safe environment. The 'prohibited activities' identified in the consultation document appropriately capture the range of concerns we have with regard to out-of-schools education settings.
38. Given the examples highlighted above we particularly welcome the focus on the appointment of unsuitable staff. We recommend that all individuals working in supplementary school settings and carrying out 'regulated activity' should have enhanced DBS clearance including checks to ensure employees and volunteers are not on the 'barred list' of individuals who are unsuitable for working with children and vulnerable adults.
39. Further to this, Government should also give consideration to whether it would be lawful and practical to expand the list of regulated professions so as to include staff at supplementary schools. In doing so the Government should consider that it is already best practice in many religious and non-religious out of school setting such as youth clubs and private tuition to require staff to undertake enhanced DBS checks and if appropriate additional qualified training. The National Secular Society has already called on the Government to introduce mandatory reporting for child abuse to cover (at a minimum) all regulated professions – as recommended by the UN Committee on the Rights of the Child.
40. We also welcome the inclusion of 'undesirable teaching'. We agree that any intensive educational settings should not undermine fundamental British values. The prospect of state regulation of supplementary schools such as madrassas, Sunday schools or Jewish yeshivas raises an obvious tension between religious freedom and child safeguarding. As a secularist organisation interested in promoting religious freedom, the prospect of state regulation of private religious practice would give us considerable cause for concern.
41. It is undeniable that many mainstream and widely held interpretations of religion are incompatible with 'fundamental British values', defined by the Government as "democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs".
42. However, a distinction should be drawn between private religious practice and children's education. An individual should enjoy religious freedom at least up to the point at which they start to impinge of the freedom of others. Too often in protecting parental rights (and sometimes 'group rights'), the rights of the child are neglected or ignored. We favour an approach in which the independent interests of young people and parents – and indeed, civil society, are appropriately balanced.
43. The liberal state should ensure that parents are given broad discretion (within the law) to raise their children as they wish at home, but that the independent interests of the child are the first priority where their education is concerned. Given the proposal's focus on regulating only 'out-of-school educational settings providing 'intensive tuition', we believe the remarks from The Northern Council of Mosques which said the proposals "unduly encroach" on religious freedom and the Christian Institute, which called the proposals an "unprecedented attack on religious freedom", are wide of the mark.
44. Article 9 of the European Convention on Human Rights which protects freedom of thought, conscience and religion, is a qualified right and as such the freedom to manifest religion can

be limited in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

45. The state has a duty to protect and uphold children's rights - to ensure that each and every child is safeguarded from harm and gets the best possible start in life. It should fulfil its duty equally for all children and young people, regardless of their religious background. One of the primary purposes of education should be to cultivate children's autonomy. When educational settings act to stymie young people's independence, this raises issues of abuse worthy of the state's intervention.
46. As previously mentioned, some children receiving intensive tuition in out-of-school settings may not be part of mainstream education. In such cases their autonomy is severely restricted and the potential for radicalization is significantly increased. In such cases, undesirable teaching would be a violation of the child's right to an open future, and thus objectionable from both an ethical and a human rights perspective.
47. At the very least, children in any educational setting should not be subjected to extremist teaching and indoctrination into hateful, intolerant and misogynistic ideologies.
48. We welcome the proposal to ensure that corporal punishment is not a practice adopted in out-of-school settings. The weakness of the language used here is however a cause for concern. In 2011 we called on the Government to immediately implement the recommendations in Sir Roger Singleton's independent report on physical punishment by extending the ban on physical punishment in schools and other children's settings to supplementary schools. We again urge the Government to do this.
49. Corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity. Its legality in out-of-school educational settings breaches their right to equal protection under the law. The lack of progress on this issue gives us cause for concern, especially in light of the well-documented evidence of such widespread abuse of children in out-of-school settings.

Sanctions

50. We support the Government's approach. If any out-of-school education setting fails an inspection, an intervention procedure should be put in place and an improvement plan should be instigated. Such a plan should involve the community and relevant governmental and non-governmental agencies within an overall framework aimed at protecting children's rights and improving safeguarding.
51. If the violation is severe, or if the institution fails to demonstrate improvement, temporary or permanent closure should be a potential sanction. We agree that failure to register where the threshold is met should constitute grounds for taking action.

Conclusion

52. Out-of-school educational settings, including religious supplementary schools, are a poorly regulated area and there is clear evidence of need for a new system of registration, regulation and inspection to ensure that children in such settings are safeguarded. We broadly support the Government's approach as set out in the consultation document.

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