

RE for all 14-16 year olds:

Evidence that it is possible to ensure that a school provides RE in accordance with their Agreed Syllabus

Very few people will have missed the headlines about Religious Education published in the last few weeks. These emanated from a “The State of the Nation” report from NATRE, the RE Council and RE Today that cites clear evidence based on the government’s own data that more than one in four schools are not providing RE at all and even more are not providing RE for all pupils.

Included in what followed on social media and in the press were statements from many different sectors within the world of RE that they were powerless to do anything about this situation. If a school, for whatever reason decided to reduce or even remove its RE provision, then no one could do anything about it unless the school were one of the ‘unlucky’ few (more in certain regions of the country) where an Ofsted inspector happened to pick it up.

NATRE has shown it is not true to say that nothing can be done. It is possible to hold schools to account for their RE provision and that power rests not with a large powerful organisation but with any individual prepared to write a complaint.

Last year, after very careful consideration the NATRE executive voted to do just that and effectively to test the complaints process. A local authority maintained school was identified where we believed we had clear evidence that the provision for RE was non-compliant with the law. The local SACRE¹ had tried to resolve the matter over an extended period but the school had refused to provide an accredited course in RE as was required by the Agreed Syllabus. NATRE therefore wrote a letter to the Headteacher beginning the first stage in the formal complaints process and copied in the Chair of SACRE.

The case was not simple because, as is often the case with legal matters, the result can rest on the use of very simple words. We have learnt that if a SACRE wants to secure accredited provision for all pupils (as was recommended in the Non-Statutory National Framework for RE, 2004) then words like ‘should’ and ‘recommend’ will not suffice instead ‘must’ and ‘obligatory’ need to be used.

Fortunately however, during the period when the complaint was being considered by the Secretary of State, it just so happened that the local Agreed Syllabus was being revised and the Agreed Syllabus Conference, decided to amend the wording to ensure that the words of their new document made their original intentions very clear.

To cut a very long story short, NATRE is pleased to report that the courses now being followed by all students at the school in question do include a GCSE in Religious Studies. Perhaps most significantly, the Department for Education has demonstrated its willingness to engage with this issue and therefore help secure provision for RE.

So what are the implications of this? NATRE believes they are as follows:

1. The requirements of any Agreed Syllabus, not just those that require an accredited course to be followed, are legally binding and schools can be required to follow them
2. SACREs are not powerless, they could choose to use this complaints process to hold schools to account
3. Those requirements of an Agreed Syllabus must be expressed in irrefutable language (see above) if any complaint is to be successful
4. Due to the current structure of accountability measures, schools are under enormous pressure to prioritise certain subject areas over others and therefore if a SACRE wants the programmes of study set out in the Agreed Syllabus to be met, then ‘recommending’ them is not guaranteed to secure them.
5. The complaint has tested the process for a local authority maintained school. What about an academy? The test for the complaint would not be based on the words in the Agreed Syllabus but those in the Funding Agreement. DfE guidance on the complaints process for academies can be read here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/557407/Complain_about_an_academy.pdf

¹ Standing Advisory Council on Religious Education

6. This particular complaints process cannot effect change to the quality of provision

Appendix 1

Some implications of this case related to public examinations for Agreed and other syllabus writers

Department for Education comment:

This legislation [section 42 Education Act 1996 -see below] is still current and we looked at it in the context of the xxx case. Essentially, our interpretation is that we can expect a school to enter students who have followed the syllabus for an accredited qualification, but ultimately the decision is the school's as to who they think is ready and can be entered. An Agreed Syllabus itself does not have this power (it can advise/recommend that students are given the opportunity to take the exam, but can't require it).

In our view, the function of section 402 of the Act is to prevent schools from failing to enter pupils for exams who were expecting to be entered for them, and not as a general obligation to enter them for exams where it was understood by the student and the school that the subject would be studied without a view to taking an exam at the end of it.

However, if a school is genuinely teaching the content of an accredited qualification as a means of delivering RE, it would be unusual for them not to enter students for it except for good educational reasons.

The xxx Syllabus begins with 'It is both a legal requirement and an entitlement that all students (other than those withdrawn by parental request) study RE/RS at Key Stage 4 through an accredited course'. This isn't strictly right as it suggests there is a legislative requirement that a student study RE via an accredited course. In this case, it would have been more accurate to say, 'This Approved Syllabus makes it a legal requirement and an entitlement ...'.

Education Act 1996 Section 402

Obligation to enter pupils for public examinations <http://www.legislation.gov.uk/ukpga/1996/56/section/402>

402 Obligation to enter pupils for public examinations.

(1) Subject to subsections (2) and (3), the governing body of a maintained school shall secure that each registered pupil at the school is entered, at such time as they consider appropriate, for each prescribed public examination for which he is being prepared at the school at the time in question in each syllabus for that examination for which he is being so prepared.

(2) The governing body are not required to secure that a pupil is entered for any examination, or for an examination in any syllabus for that examination, if either—

(a) they consider that there are educational reasons in the case of that particular pupil for not entering him for that examination or (as the case may be) for not entering him for that examination in that syllabus, or

(b) the parent of the pupil requests in writing that the pupil should not be entered for that examination or (as the case may be) for that examination in that syllabus;

(3) For the purposes of this Chapter, a pupil shall be regarded as having been prepared at a school for a syllabus for a prescribed public examination if any part of the education provided with a view to preparing him for that examination in that syllabus has been provided for him at that school.

(4) In this Chapter references to a public examination (or a prescribed public examination) are references to such an examination as it applies in relation to persons who are entered for a syllabus for that examination with a view to meeting the examination requirements for that syllabus so as to qualify for assessment for the purposes of determining their achievements in that examination on any particular occasion in any year when an assessment takes place.

The Statutory Instrument that sets out these regulations can be read in full here: [http://dera.ioe.ac.uk/11279/3/The%20Education%20\(Prescribed%20Public%20Examinations\)%20Regulations%202010%20DRAFTfinal.doc](http://dera.ioe.ac.uk/11279/3/The%20Education%20(Prescribed%20Public%20Examinations)%20Regulations%202010%20DRAFTfinal.doc)

Appendix 2: How to make a complaint about the curriculum in a local authority maintained school

Follow the school's complaints procedure - every school in England must have one. The school complaints procedure should be published on the school's website

Follow the steps set out in that procedure in order. Only move on to the next step if your complaint is not resolved. Procedures may vary slightly but usually include the following steps:

1. Complain in writing to the headteacher. (see appendix 3)
2. Complain in writing to the school's governing body

After you've followed the school's complaint process

You can complain to the Secretary of State for Education by contacting the Department for Education (DfE).

Appendix 3 – The complaint



5-6 Imperial Court, 12 Sovereign Road, Birmingham B30 3FH
Tel: 0121 458 3313 • Fax: 0121 285 1816

Dear xxx,

I am writing on behalf of the National Association of Teachers of Religious Education (NATRE) to make a **formal complaint** about the apparent shortfall in the provision for Religious Education at xxx. NATRE is a subject association and works through an elected national executive to promote high quality provision for Religious Education in schools around the country. Over recent years we have been monitoring and responding to changes to the level of provision in some schools and colleges using different sources of information such as GCSE results, school workforce data and school websites. We are sharing our findings in regular meetings with the Department for Education and the HMI at Ofsted, all of whom are taking a keen interest.

We believe, as I am sure do you, that Religious Education is a vitally important subject in the school curriculum. Religious literacy is essential as we prepare pupils for life in modern Britain and the specific knowledge, understanding and skills provided by a rigorous course in Religious Education make a significant contribution to building positive community relations.

As you know, your school, as a local authority maintained school is bound by legislation to make provision for Religious Education for **all pupils on the school roll** in accordance with your Local Agreed Syllabus – in this case, the xxx Agreed Syllabus. The document specifies (page xx) that for key stage 4 provision must meet the following requirements: **“for all students aged 14-16 years, at least one course in Religious Education or Religious Studies, leading to a qualification approved under Section 96 should be provided”** In effect this means that all pupils must follow either a GCSE short or full course in Religious Studies. We appreciate that only the full course now counts in school performance measures but that does not affect the legal requirement for RE nor the fact that the short course counts for the individual pupil and is recognised by employers as valuable in its own right.

According to the **xxx** options booklet for your school Religious Education does not appear in the core curriculum for Key Stage 4, is not listed as a compulsory subject on page x and appears only as an option at full course. I can see that you offer a critical thinking course which does not lead to an examination. The options presentation for **xxx** appears to follow the same pattern and omits Religious Education from the core curriculum described on slide 10.

This appears to show that in relation to the students currently in year 10, xxx is in breach of the Statutory Agreed Syllabus at least at Key Stage 4 and that if the current plans are put into effect, the same situation will exist next year. The Statutory Agreed Syllabus is absolutely clear. Students must follow a nationally accredited course **in Religious Education or Religious Studies** leading to an accredited qualification. A course in ‘Critical Thinking’ for example does not meet this requirement.

Please can you respond to this complaint and let me know what steps you intend to take to ensure the school is no longer in breach of this statutory requirement?

With regards,

Deborah Weston

Deborah Weston OBE
Research Officer
National Association of Teachers of RE

cc. xxx (Chair of Governors)
xxx SACRE Consultant for Religious Education
xxx Chair of xxx Standing Advisory Council on Religious Education (SACRE)
xxx Chair NATRE chair@natre.org.uk
xxx Executive Officer NATRE exec@natre.org.uk
