

A protocol for assuring provision for religious education in maintained schools in England



1) Legal background

- a) Section 409 of the 1996 Education Act allowed a local authority (LA) to make arrangements for the consideration or disposal of any complaint about the unreasonable action of the LA or of a Governing Body in relation to a statutory duty or power. This would include admissions and the provision of an appropriate curriculum for example.
- b) The Apprenticeships, Skills, Children and Learning Act 2009 introduced the role of a Local Government Ombudsman (LGO) to deliver a new complaints handling service for parents and pupils with concerns about schools. The plan of the previous government was for there to be a phased introduction of this scheme, so 14 authorities did engage a LGO but the scheme was not commenced elsewhere.

2) Recent developments

- a) In 2011, the Education Act removed the role of a Local Government Ombudsman in handling complaints about the curriculum but did not restore the previous arrangements. Instead, from 1st August 2012, the Secretary of State for Education became responsible for considering complaints of this nature. The government has stated its commitment to ensuring that there is much clearer information about how individuals can complain when they feel it is necessary.
- b) The Secretary of State retains the power of intervention. These powers are known as the '496/497 powers'. Where the school has acted or is proposing to act unreasonably in carrying out certain functions or where it has failed to discharge a duty at all, an individual or group may appeal to the Secretary of State who has the power to direct a school to act.
- c) The Secretary of State is not required to intervene in every case that is brought to his attention but he must always consider whether, in light of the information provided to him by a complainant, he should exercise his powers

3) The role of SACRE in monitoring the duty to provide religious education

- a) As part of the responsibility of their remit to monitor the provision of the local Agreed Syllabus, a SACRE might investigate the evidence that a school was not making appropriate provision for Religious Education. This investigation might utilise for example school level data about GCSE entries published by the DfE each spring¹. Each school will have a publication scheme² which will detail other sources of information that it publishes such as the curriculum policy or information found in a prospectus. See school information regulations.³
- b) SACRE might conduct an investigation and ask the school to explain any apparent inconsistencies between the data or policies and the requirement to make provision for RE. So for example, if the local Agreed Syllabus requires that schools offer the GCSE short course as a minimum entitlement at Key Stage 4 and there are lower numbers of entry for GCSE in the data, SACRE would have reasonable cause to doubt that appropriate provision was being made.
- c) If the result of SACRE's investigation concluded that children and young people were not receiving their entitlement to the appropriate provision for RE, then they could make a formal complaint to the school and governing body

4) Making a complaint about the duty to provide religious education

- a) Regarding the duty to provide religious education, the procedure for complaining is the same as for other types of complaint about the curriculum. Under section 29 of the 2002 Education Act, each maintained school in England must have a procedure in place for dealing with complaints relating to the school.
- b) They are required to publish a complaints procedure and any individual with a complaint should follow that procedure in the first instance. If, once the school's procedures are exhausted, they remain dissatisfied with the outcome, then after 1 August 2012, the complainant may raise their complaint with the Secretary of State.
- c) This means that if SACRE is not satisfied with the response to their complaint to the school about the provision for RE they too can complain to the Secretary of State.
- d) If the complaint were upheld, the Secretary of State could consider 'a direction' which might take the form of a letter.

For further information please refer to <http://www.education.gov.uk/aboutdfe/complaintsprocedure/b00212240/making-complaint-school/how-to-complain>

¹ <http://www.education.gov.uk/rsgateway/DB/SFR/s001057/sfr03-2012.pdf>

² Required under the Freedom of Information Act 2000

³ <http://www.education.gov.uk/a00208330/faqs-about-changes-to-school-information-regulations>