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Collective Worship in Scotland

Claire Cassidy and Frankie McCarthy

Abstract

While the countries that constitute the UK tend to refer to and practise Collective Worship, in Scotland, with its distinct education system, Religious Observance is undertaken in schools. The chapter discusses key policy and practice shifts in the area of Religious Observance and highlights a range of legislation relevant to Religious Observance. Consideration is given to the proposed move towards Time for Reflection as a more inclusive approach to the spiritual development of Scotland's children. The role of parents, statutory bodies and religious groups is explored, highlighting that children are marginalised in discussions about their Religious Observance. The chapter concludes by raising concerns relating to the parental right to withdraw their children from Religious Observance, situating this within the context of children's rights.

Introduction

The practice of Religious Observance is a requirement in Scottish schools. Historically, this requirement would have been fulfilled through acts of Christian worship. However, in recent years, recognition has increasingly been given to the diversity of faith and non-faith communities in Scotland. Policy guidance now recognises that 'Time for Reflection' may more appropriately describe the process of personal search through which a child can discover his or her own moral and ethical values.

This chapter will explore the requirement of Religious Observance in Scotland by situating it within the current demographic, legal and educational context. It will identify key issues with the current practice of Religious Observance and call for further research to provide an evidence base on which recommendations for improvement can be based.

Context

Belief demographics of population

Questions on religion were introduced in the Scottish Census for the first time in 2001. In common with the approach in Northern Ireland, two questions were asked, namely ‘what religion, religious denomination or body do you belong to?’ and ‘what religion, religious denomination or body were you brought up in?’ In 2011, a sole question was asked in line with the approach taken in England and Wales, namely ‘what religion, religious denomination or body do you belong to?’ In both years, the question was voluntary, but the response rate was high, with 93 per cent of people responding in 2001 and 94 per cent in 2011 (Office for National Statistics, 2011).

The data suggest a period of significant change within the Scottish population. Of special note is the rise in the percentage of the population reporting no religion, an increase from 27.8 per cent in 2001 to 36.7 per cent in 2011. Affiliation with Christian denominations has fallen from 65.2 per cent to 53.8 per cent, although within that, membership of the Roman Catholic Church has remained static at 15.9 per cent, perhaps as a result of immigration from traditionally Roman Catholic countries in Eastern Europe. Affiliation with non-Christian religions remains small in percentage terms, however each minority religious affiliation (Buddhist, Hindu, Muslim, Sikh and Other religion) except Jewish has increased its share of the population since 2001. The 1.4 per cent of the population reporting affiliation with minority religions in 2001 had risen to 2.5 per cent in 2011.

-insert table 1 about here -

A somewhat different picture is painted by the 2016 Scottish Social Attitudes Survey, in which 1,197 adults were asked about their religious affiliation. In it 52 per cent of respondents did not consider themselves part of a particular religion, a considerably higher number than those reporting no religion in the most recent census (Montagu, 2017).

The Scottish school system

In 1998 the UK Government passed the Scotland Act which devolved powers to a new Scottish Parliament. Within the remit of those powers falls education. In fact, the education system in Scotland has always been different to that of its UK neighbours. According to Scottish Government figures, the vast majority of children in Scotland, approximately 95.5 per cent attend state schools with only about 4.1 per cent being educated in private (independent) schools and the remainder receiving their educational provision outwith either context (Scottish Government, 2016). All children in Scotland are entitled to free nursery provision from the age of three; that is up to 600 hours of pre-school education from August 2014. At the age of five, children progress to primary school for seven years (primary one through to primary seven) and then move to secondary school around age twelve. Children are permitted to leave school at sixteen, though they may remain in school until they reach eighteen.

All teachers in Scottish state schools are required to be registered with the General Teaching Council for Scotland (GTCS) and must meet Professional Standards as student teachers (Standards for Provisional Registration), as class teachers (Standards for Full Registration) (GTCS, 2012a) and as headteachers (Standards for Leadership and Management) (GTCS, 2012b). The Standard for Career-Long Professional Learning (GTCS, 2012c) was published in 2012 and makes teachers responsible for their own professional learning as they progress through their careers with monitored Professional Update being implemented from August 2014.¹ While teachers in private schools do not need to be

¹ General Teaching Council for Scotland, *Professional Update Microsite*

<<http://www.gtcs.org.uk/professional-update/professional-update.aspx>> accessed May 2017

registered with the GTCS, or even hold a teaching qualification, the majority of schools have embraced the notion of Professional Update for their teachers.

In a similar vein, Scottish state schools follow a curriculum, *Curriculum for Excellence* (CfE) (Scottish Executive, 2004a; Education Scotland, 2017), while the independent sector need not. CfE was introduced to all Scottish schools in 2010. The curriculum is for children aged between three and eighteen years old. Following a National Debate on Education in 2002, five National Priorities were established: Achievement and Attainment; Framework for Learning; Inclusion and Equality; Values and Citizenship; and Learning for Life. These came together to provide the foundation upon which CfE would be built. They aimed to generate coherence and progression in children's educational experiences with a view of making 'our young people aware of the values on which Scottish society is based' (Scottish Executive, 2004a: 11). These values would be evidenced through the children working towards what are known as the 'four capacities', where they will become responsible citizens, confident individuals, effective contributors and successful learners (Cassidy, 2013). The focus of the curriculum is on experiential learning with collaborative group work and cross curricular learning taking centre stage. Until children reach their third year of secondary schooling they should receive a broad, general education and afterwards specialise in subjects for which they will be assessed by national assessments.

Religious Observance: Law, Policy and Practice

The legal framework

Human rights.

The right to an education is contained within Article 2 of the First Protocol to the European Convention on Human Rights, incorporated into Scots law by way of the Human Rights Act 1998 and the Scotland Act 1998, section 57. This right is held by parents in respect of their children, and was ratified by the UK subject to the reservation that it would be

adhered to only insofar as is compatible with the provision of efficient instruction and training, and the avoidance of unreasonable expenditure. Articles 28 and 29 of the United Nations Convention on the Rights of the Child (UNCRC) set out detailed provision as to the nature and goals of the education to which children are entitled. The UNCRC has not been directly incorporated into Scots law. However, children do hold a domestic right to education by virtue of the Standards in Scotland's Schools etc. Act 2000, section 1.

Freedom of thought, conscience and religion is protected for both parents and children under Article 9 of the ECHR, and freedom from discrimination is enshrined for both in Article 14. These protections are augmented domestically by the Equality Act 2010. The Act establishes nine protected characteristics (s 4), including religion or belief (s 10), and sets out prohibited conduct in relation to those characteristics (ss 13-27) in various specific contexts, including education (ss 84-99). Part 6 of the Act sets out what will be unlawful conduct in the context of schools (ss 84-89). Amongst other things, a school must not discriminate against or victimise a pupil in the way it provides education for the pupil (s 85(2)(a) and 85(5)(a)), by not providing education for the pupil (s 85(2)(c) and 85(5)(c)) or by subjecting the pupil to any other detriment (s 85(2)(f) and 85(5)(f)). Schools must also not harass a pupil (s 85(3)(a)). A key caveat is that none of the provisions apply to anything done in relation to the content of the curriculum (s 89(2)). The prohibition on discrimination in relation to the provision of public services (s 29) is also excluded from application acts of worship or others religious observance organised by or on behalf of a school (Sch 3, Part 2, 11).

Denominational schools are subject to special exemptions in relation to discrimination on the grounds of religion or belief (sched 11, para 5 and 6). The prohibition on religious discrimination in relation to admissions and provision of education, benefits, facilities and services does not apply, allowing denominational schools to conduct themselves in accordance with the tenets of their faith.

Education Law in Scotland

The law of education in Scotland has been bound up with religion since its inception (Scotland, 1969; Paterson, 2003; Stevenson, 2012). The earliest schools were connected to Christian churches or monastic institutions. The independence of the Scottish education system from England and Wales was secured by the Treaty of Union 1707, which included continuing national adherence to the Protestant faith as one of its central tenets. The Education (Scotland) Act 1872, which laid the foundations for the modern education system by making schools the responsibility of a Government department, allowed schools the liberty to continue with the practice of religious observance and instruction which had been customary up until that point (Scott, 2016, 7-10).

In the modern day, the principal obligations in respect of school education in Scotland are set out in the Education (Scotland) Act 1980, as substantially amended. The local authority, acting as an Education Authority, has an obligation to secure adequate and efficient provision of school education within its area (s 1(1)). In performance of this obligation, pupils are to be educated in accordance with the wishes of their parents insofar 'as is compatible with the provision of suitable instruction and training' and the 'avoidance of unreasonable public expenditure' (s 28). The Education Authority has a duty to provide schools (s 17(1)), and it is lawful for the Authority to provide denominational schools where representations are made by members of the denomination to the effect that such a school is needed to accommodate their children s 17(2)). The rules as to management of denominational schools are set out in section 21 of the 1980 Act, providing amongst other things that the religious beliefs and character of a teacher must be approved by representatives of the denomination.

Scottish state schools are non-denominational by default but, as noted above, the Education Authority is empowered to provide denominational schools where there is

sufficient demand from members of the denomination in question. Information given on the Education pages of the Scottish Government website at the time of writing confirms that there are 370 state-funded denominational schools, 366 of which are Roman Catholic, three Episcopalian and one that is Jewish.

In all state-funded schools, both the practice of religious observance and instruction in religion should be made available (s 8(1)), unless a resolution to discontinue this has been passed by the Education Authority and approved by electors in that local authority area (s 8(2)). No explicit guidance is provided within the legislation as to what observance or instruction should entail. However, reference is made to the 'custom of public schools in Scotland'. Customarily, Scottish schools were Presbyterian in character, which offers implicit guidance as to what the legislation was intended to encompass (Scott, 2016). Scott notes that framing the provision in terms of custom, without an express connection to a particular religious tradition, has allowed for changes in practice to develop gradually without the need for legislative amendment. This may go some way to explaining why the Scottish legislation seems to have elicited little of the vigorous debate in Parliament which marked the passage of equivalent provisions for other areas of the UK.

Implementation of the statutory requirements.

It is worth noting, as a precursor to the discussion which follows, that the majority of parents in a 2014 survey by the Scottish Parent Teacher Council (SPTC, 2014) strongly believed their child should have an opportunity during school hours for spiritual or moral reflection, in addition to believing that it was important for children to learn about different faiths (SPTC, 2014b). Although these principles seem to be broadly accepted, their practical implementation gives rise to some dispute.

Instruction in religion.

Two terms are employed within the Scottish education system in relation to religious instruction. Religious and Moral Education (RME) is taught in non-denominational schools, while denominational schools teach Religious Education (RE). CfE content is framed around what are called Experiences and Outcomes. For RME, the Es and Os (as they are known) are presented under the following headings: beliefs relating to Christianity; Christian values and issues; Christian practices and traditions; beliefs of other world religions; other world religions' values and issues; other world religion practices and traditions; and the development of beliefs and values. For RE in Catholic schools, under the banner of Catholic Christianity, the headings are: the mystery of God; in the image of God; revealed truth of God; son of God; signs of God; word of God; hours of God; and reign of God. In addition, pupils will learn about the beliefs of other world religions; the values and issues as considered by other world religions and the practices and traditions of other world religions (Scottish Executive, 2004a). There are no expressly stated Es and Os for the small number of denominational schools which are not Catholic. Other religious schools are free to deliver religious instruction in their own faith and are also permitted to create their own RME syllabus. This, though, is not available through Education Scotland.

For RE and RME it is clear that children should learn both from and about religious and non-religious traditions (Nixon, 2013). This is a shift, asserts Nixon, from the Education Act of 1872 where what was then known as 'Religious Instruction' was used to ensure Protestantism could be safeguarded. Either way, the Scottish Government's advice to headteachers notes that children have an 'entitlement to have this [RE/RME] taught in a meaningful and progressive way' (Scottish Government, 2011a, para 5).

Religious Observance.

In Scotland, the notion of Collective Worship does not exist. Instead, the term Religious Observance is favoured. The two terms are philosophically distinct. Observance and worship

were historically linked in the context of Scottish education, as an obvious consequence of the religious roots of Scottish schools discussed above. This connection continued into the relatively recent past. In policy guidance issued in 1991, the Scottish Office Education Department (SOED) identified religious observance as referring to ‘occasions set aside for different forms of worship’ (SOED, 1991), with the curriculum at that time explaining that Religious Observance was reserved for ‘something akin to worship’ (SOED, 1992).

The position changed at the start of this century. In 2001, concerns were expressed by Her Majesty's Inspectorate of Education (HMIe) to the effect that non-denominational secondary schools were failing to provide appropriate opportunity for Religious Observance as required by the legislation. In response, Scottish Ministers established a panel of representatives from education, religious organisations and parents' groups to review the provision for Religious Observance in all schools, to consider the current guidance on arrangements for Religious Observance and to make recommendations for the future (Scottish Executive, 2004b).

In its 2004 report, the Religious Observance Review Group set out a revised definition of Religious Observance as comprising ‘community acts which aim to promote the spiritual development of all members of the school's community and express and celebrate the shared values of the school community’ (Scottish Executive, 2004b: 12). In contrast to the historical position, the report makes a clear distinction between Religious Observance and acts of worship that are organised:

Worship is a free response of an individual and community to what is considered worthy of worship. This response involves three elements: belief in the reality of the focus of worship, the desire to offer worship to the focus of worship and the commitment to life stances related to the focus of worship (Scottish Executive, 2004b: 15).

The report states explicitly that when an organised act of worship is planned, it assumes that those attending the event share the elements noted above. On the other hand, this is not the case for Religious Observance. For denominational schools the notion of Religious Observance should be contiguous with the dominant faith of that community. In the non-denominational setting, with its arguably more diverse population, opportunities for Religious Observance via acts of worship should revolve around events within the informal curriculum such as those organised by various groups or chaplains, for example. Religious Observance is not simply the domain of the R(M)E portion of the curriculum but should be evident through the rest of children's school experience with a focus on supporting children in the development of their spirituality. At the same time, the Review Group recognise the importance of carefully planning for acts of worship with the norm being that schools would hold at least six such opportunities per year. (In the most recent March 2017 guidance, it is stated that opportunities for Religious Observance should be provided 'several times in a school year' and that 'parents and carers should be involved in making decisions about frequency' (Scottish Government, 2017: 3)). This would be over and above the school's traditional celebrations and aside from assemblies where children learn about news and events within the school community. The overall goal of the inclusion of Religious Observance in Scottish schools is that of supporting every child to 'reach his or her potential' – whatever that may mean – through personal search that allows the child to develop his or her values.

Following the report from the Religious Observance Review Group, in 2005 the Scottish Government issued new policy guidance on Religious Observance based on the Group's recommendations (Scottish Executive, 2005; Scottish Government, 2011b). Although schools are encouraged to draw upon the 'rich resources' of Scotland's Christian heritage, the guidance notes that (Scottish Government, 2011b: 10)

Many school communities contain pupils and staff from faiths other than Christianity or with no faith commitment, and this must be taken fully into account in supporting spiritual development. It is of central importance that all pupils and staff can participate with integrity in forms of Religious Observance without compromise to their personal faith (emphasis included in original).

This paragraph does not appear in the most recent guidance from March 2017, though the sentiment is retained in the assertion that ‘Religious Observance is a “whole school activity”’ in which everyone within the school community might participate (Scottish Government, 2017: 1). The guidance recognises that a term such as ‘Time for Reflection’ might be a more appropriate description of the activities carried out in fulfilment of the requirement of Religious Observance in some schools (Scottish Government, 2017: 6). The guidance recognises that Scotland has a ‘longstanding Christian tradition’, but that it welcomes diversity and urges schools to recognise that increasing diversity by being ‘sensitive’ in meeting the ‘spiritual needs and beliefs’ of all children (Scottish Government, 2017: 6).

It is worth mentioning at this point that the Es and Os for Religious and Moral Education make no reference to children participating in religious worship within the school setting. There is, though, specific mention that children will be ‘discovering how Christian communities demonstrate their beliefs through prayer, worship and special ceremonies (RME 1-03a)’, that they will be ‘increasing my knowledge and understanding of different forms of Christian worship and artefacts and can explain their importance for Christians (RME 2-03a), that they should be ‘discovering how followers of world religions demonstrate their beliefs through prayer/meditation, worship and special ceremonies (RME 1-06a)’ and that they are ‘increasing my knowledge and understanding of different forms of worship and artefacts within world religions and can explain their importance for followers of world religions (RME 2-06a)’ (Scottish Executive, 2004). The suggestion is that pupils will learn about and

understand the lives of others, but there is no allusion to the children engaging in any communal religious activity themselves. It seems odd that advice is given from Education Scotland and the Scottish Government regarding Religious Observance when there is little in the more specific RME Experiences and Outcomes that children should have around worship and nothing at all about Religious Observance in the school setting.

In the Experiences and Outcomes for Catholic schools, however, the notion of Religious Observance is, as one might expect, more explicit. While the documentation allows for exploring the traditions and practices of religions other than Catholicism, children will also be able to say, from Primary one (age five) upwards, that ‘I have, through liturgical experiences, reflected on an ability to respond to symbols and take part in rituals in order to worship God (RERC 1-17a / RERC 2-17a)’ (Scottish Executive, 2004a). Additionally, the Principles and Practices around RE in Catholic schools state that ‘Young people in schools will also benefit from the experience of faith which they gain through acts of prayer, worship, celebration and loving service to others’. Children are also to be encouraged to question in order to reflect on their lives. Teachers are encouraged to ensure that time is given for reflection around moral issues and that they should ‘incorporate experiences of prayer, liturgy and reflection and other opportunities for spiritual growth, enabling children and young people to experience the life of faith’ (Scottish Executive, 2004a).

Inspection and accountability requirements.

Education Scotland.

It is worth making clear that within the Scottish education system, schools do not have a Board of Governors. The body with most influence in Scottish schools is Education Scotland. In 2011, the curriculum body in Scotland, known as Learning and Teaching Scotland (LTS), merged with HMIe to create Education Scotland. Education Scotland is an Executive Agency and, therefore, part of the Scottish Government. One arm of Education

Scotland has responsibility for supporting teachers in their day-to-day roles in relation to curriculum and practice, while the other has school inspections as its remit.² The core principle espoused by Education Scotland is that ‘all learners and users [are] at the heart of inspection and review’ (HMIe, 2011: 6). The ethos of inspections in Scotland is focused on self-assessment by the relevant institution and Education Scotland inspectors should perform the role of supporting and challenging staff within establishments. The inspection considers all aspects of the school, including the formal and informal curricula and ethos. There is no specific remit to consider aspects of R(M)E or RO aside from how they might review any other aspect of the school.

The General Teaching Council for Scotland.

The main body with ultimate responsibility for teachers is the General Teaching Council for Scotland (GTCS). Established in 1965, it is the oldest such organisation in the world and achieved full self-regulating status independent of Government and HMIe in 2012. As noted earlier in the chapter, the GTCS sets the Professional Standards that teachers are expected to meet to teach in Scottish schools. While these Professional Standards make mention of the expectations of teachers in terms of the ways in which they conduct themselves, the values they hold and the knowledge and skills they should have, there is no mention of their duties in relation to Religious Observance. Teachers are expected to implement, to the best of their abilities, the Scottish curriculum. It is in breaches of their duties that the GTCS would become involved. It is, therefore, the class teachers and the headteacher within a school that have overall responsibility for ensuring that all children have

² There is some debate around the group with responsibility for school inspections also being the same organisation with responsibility for curricular development.

full access to the curriculum. At present, this means that all children should, unless their parents choose otherwise, be involved in Religious Observance.

Religious bodies.

In Scotland, religious bodies or organisations do not have responsibility for inspecting or reviewing practice in relation to Religious Observance. This does not mean that views are not expressed or that such bodies are not consulted in curriculum design and development, but teachers and headteachers are not held to account by these groups or organisations. One factor that is key in Catholic schools is that all teachers, particularly those in primary schools, must be in possession of a Catholic teaching qualification. In addition to this, in order to gain approval to teach in a Catholic school, the Scottish Catholic Education Service makes clear that teachers must produce a statement that demonstrates ‘how his/her personal “religious belief and character” enables him/her to undertake the duties of the particular teaching post within the context of a Catholic school, with its particular mission, values and ethos’ (Scottish Catholic Education Service, 2017). This is required in conjunction with a reference, preferably from the teacher’s parish priest. In December 2016, however, the Equality and Human Rights Commission (2016) urged the Scottish Government to bring legislation relating to religious restrictions on teacher recruitment in line with the EU Employment Equality Directive.

Pupils and parents.

Both pupils and their parents play a role in bringing schools to account in respect of their statutory obligations. Following the Scottish Schools (Parental Involvement) Act 2006, all schools must provide opportunities for parents to be involved in the life of the school (s 1), and they should provide equal opportunities for this involvement that do not discriminate against parents on account of a range of factors, including their ‘beliefs or opinions, such as religious beliefs’. Each state school in Scotland must have a Parent Forum (s 5), constituted

by the parents of all children attending that school (s 5(1)), who have the right and the obligation to air their views on the operation of the school. The Forum may establish a smaller body, known as a Parent Council, to represent them (s 5(2) and 6). The legislation does not specify how frequently either the Forum or the Parent Council should meet and practice varies, often depending on the issues to be considered. In some cases, Parent Council meetings are held monthly with Forum meetings occurring much less frequently. Indeed, the timing and frequency of meetings appear to be in the hands of each school's senior management team. At meetings of the Forum and/or the Parent Council, parents are entitled to air their views in relation to any aspect of the particular school's policy and practice, and these views can be aired to the headteacher, the local authority or Education Scotland's inspectors as appropriate (s 8). The 2006 Act, taken together with the Standards in Scotland's Schools etc. Act 2000, have the result that education authorities must consult with parents when reviewing the performance of schools. Indeed, the 2006 Act makes clear that the opportunities for the involvement of parents in the education of their child should be assessed when monitoring schools (2000 Act, s 7(3)).

In addition, the Standards in Scotland's Schools etc. Act 2000 is explicit in stating that children should be consulted by the headteacher on the School Development Plan, with the headteacher seeking ways to involve the children 'when decisions require to be made concerning the everyday running of the school' (s 6(3)). It is evident that both the notion and practice of Religious Observance are matters 'concerning the everyday running of the school', therefore implying that children should be consulted on the manner in which religious observance is carried out.

Evidence about implementation from inspection reports.

In sampling a wide range of denominational and non-denominational primary and secondary school inspection reports from the 32 Scottish local authorities, the same bland and

uninformative statements about Religious Observance can be seen. The denominational schools make specific reference to aspects of school life where Religious Observance is clear, as might be expected. Examples of common comments include: ‘Assemblies and daily prayers provided appropriate opportunities for Religious Observance’; and ‘There remains scope for some children to achieve more’; and ‘Children have good opportunities for Religious Observance through daily prayers, regular assemblies and attendance at Mass for special celebrations’. In non-denominational schools the statements are considerably vaguer and give no clear impression as to what, if anything, the inspectors observed and the children experience. Comments appear to be drawn from a pool of statements since the same phrases and sentences appear repeatedly, including the likes of: ‘There were appropriate arrangements for Religious Observance’; ‘Regular assemblies provided good opportunities for Religious Observance and celebrating pupils’ successes’; ‘The school has suitable arrangements for Religious Observance’; ‘Recent links with the local church had improved opportunities for Religious Observance’; ‘There were very effective arrangements for Religious Observance, including a monthly assembly led by the school chaplain’. Further, the religious observance, when noted, appears to be Christian in nature, though some schools evidently involve those of other faiths in speaking to the children.

An issue worthy of discussion is that it is not clear what is considered appropriate in terms of Religious Observance and by whom it may be considered appropriate. Progress and children’s learning in the likes of Mathematics or Physical Education can easily be seen and assessed, but it is not at all clear what would constitute a satisfactory experience or piece of learning in relation to Religious Observance.

Evidence about implementation from academic research.

Little research has yet been carried out as to how the guidelines on Religious Observance are being implemented. An initial study does, however, give rise to some

concerns that would benefit from further investigation. Gilfillan, Aitken and Phipps (2013) employed a case study method to gather original empirical evidence on the experiences of headteachers, practitioners and pupils with regard to the new guidelines. Research was carried out in four non-denominational state schools (three primary and one secondary) in central Scotland. Amongst practitioners, there was confusion as to what the policy actually was and anxiety about how best to deliver it, along with a ‘malaise surrounding RO as if it was a subject area of the curriculum that was destined to decline in significance’ (Gilfillan et al, 2013: 102). Amongst pupils, there was confusion about the concept of spirituality, uncertainty about whether school was the appropriate place to explore this aspect of life and, in the secondary school, a culture of ‘anti-learning’ around Religious Observance meaning that pupils considered themselves forced to pay attention to an activity from which they did not expect to learn anything (Gilfillan et al, 2013).

The authors conclude that incoherence in the non-denominational understanding of Religious Observance lies at the root of the problems of implementation (Gilfillan et al, 2013). In their view, there are few or no practitioners or practices available to enact policy in this area, with the result that a non-religious model of spiritual development remains out of reach. They recommend that further empirical research be conducted to confirm the findings of this pilot study, noting that any such research should try to include a greater number of secondary schools, and a greater number of schools with some presence of non-white ethnic minority pupils and teachers, although the difficulty with finding schools willing to participate in this type of research is acknowledged (Gilfillan et al, 2013).

Areas for Discussion

Appropriate terminology: ‘Religious Observance’ vs ‘Time for Reflection’

Early in 2014, the Church of Scotland and Humanist Society Scotland (HSS) jointly called on the Scottish Government to amend the 1980 Act to replace references to ‘Religious

Observance’ with ‘Time for Reflection’ (Fulton & McLellan, 2014). The call was made in a statement submitted to the Public Petitions Committee in respect of the petition on the parental opt-out from Religious Observance (PEO1487: Religious Observance in Schools (20 June 2013)). The letter supports ‘the opportunity for schools’ communities to experience shared community acts of reflection and collective exploration of values and beliefs’, and considers that a change in terminology would bring legislation into line with modern views by celebrating diversity, whilst ‘removing the current focus on religion, with which many non-religious people struggle’.

Some support for this change in terminology can be found in the *Curriculum for Excellence* Experiences and Outcomes for R(M)E, which use the term ‘reflection’ more frequently than either ‘worship’ or ‘observance’. Guidance for Catholic schools is that they should develop in children skills for reflection, though this need not pertain exclusively to one’s religious beliefs since it is closely tied to comments around critical thinking, discernment and moral decision-making. In non-denominational schools there is a focus on children reflecting on their own moral values, though this is again linked with critical evaluation and critical thinking. However, the Es and Os for children in non-denominational schools suggest that children in the upper stages of secondary school are able to reflect on their responses to issues surrounding the likes of cultural and religious diversity. In articulating reflection in the same context as critical thinking, the notion of reflection in the Es and Os is more about evaluation rather than inner search, which appears only minimally in the section on principles and practice with some reference to children developing their own beliefs and attitudes.

The change in terminology proposed by the Church of Scotland and HSS received no direct comment from the Public Petitions Committee (SP M PPC 28 Jan 2014 2013-2014), or from the Education and Culture Committee to whom the Petition was subsequently referred SP M

EC 6 May 2014 4139-4142). The most likely explanation for this absence of comment is that the terminology was not the focus of the petition, although subsequent public disagreement between the two groups as to what precisely had been meant by the letter may also have played a part (McLellan, 2014). The Church of Scotland's General Assembly report (2014) shows that the topic of Religious Observance was discussed broadly, and also in relation to the move towards Time for Reflection and the association with HSS. Under Section 16.3, in reference to media reporting of the HSS and Church of Scotland proposals, the report states that 'There was sadly, a great deal of misinformation in the coverage and commentary on that statement' (Church of Scotland, 2014, section 3/58, p. 97). The Church stress that they remain committed to Religious Observance, notably in relation to the Christian heritage to which the Scottish Government referred in their guidance to headteachers, but that they acknowledge the need for an inclusive approach. The Church and Society Council and the Standing Committee on Education had developed a training programme for those delivering Religious Observance/Time for Reflection. As part of this work they promote 'six core principles for Religious Observance/Time for Reflection', the fourth of which being 'Religious Observance is not, and should never be confessional in nature (it is not worship nor can it be)' (section 3/60, p.99). The report fails to elucidate on what the philosophical problem was with Time for Reflection given that it states that it states that Religious Observance is not worship, that a name change may be helpful in advancing their work in schools, and that they had received feedback from people responsible for leading Religious Observance who said that Time for Reflection felt more inclusive and allowed all pupils and staff to participate, as the Scottish Government guidance states, 'with integrity in forms of religious observance without compromise to their personal faith stances' (section 3/60, p.99). There seems to have been an assumption on the part of the Church that HSS had designs on removing any religious element from Time for Reflection, though this proposal is not

Commented [AM1]: I wonder should more be said about the subsequent breakdown in this apparent agreement between the two groups. I say this because I have lost count of the number of times I have heard people in England and Wales point to the 'success' of this liaison in Scotland and who fail to appreciate that it has come to nought, with those within the Church of Scotland who instigated the initiative ultimately leaving the church (as employees). Perhaps just an extra line might make this point?

Commented [f2]: I don't know actually know more about what this disagreement entailed! Any ideas?

Commented [H3]: I've had a long conversation with HSS, notably Gary who was involved in the discussions with the CoS. There is nothing that we can write without betraying confidences.

Gary, though, pointed me to the Church of Scotland's Blue Book which is a record of everything discussed at their General Assembly. I have, therefore, made use of that as it's the only thing in the public domain. The addition is in red.

recorded publicly by the Church or HSS. Section 16.3.9 makes clear that ‘The Council emphasises that its understanding of the agreement reached with the Humanism Scotland [sic] was solely on the issue of the name change and not on any other aspect of Religious Observance’ (section 3/60, p.99) and there had been

no intention of calling for a removal of religious content from Religious Observance/Time for Reflection: such a call would in fact breach the guidelines. The Council remains committed to including faith, God and the insights of the Christian tradition in Religious Observance; we simply believe also that a change of name to Time for Reflection will help those guidelines – and our ministers and chaplains in schools – work even more effectively (section 3/60, p.99).

The terminology has remained a focus of discussion, however. In April 2014, a petition (PEO1514: Making Time for Reflection representative of all beliefs (17 April 2014)) was lodged criticising a lack of diversity amongst speakers leading the Scottish Parliament’s own Time for Reflection. Of the 1,309 parents who responded to the SPTC survey mentioned above (SPTC, 2014), 68 per cent of parents with children in denominational schools disagreed with the suggestion that RO should be changed to Time for Reflection. Amongst parents of children in non-denominational schools, 39 per cent agreed with the proposal, while 25 per cent disagreed (SPTC, 2014b). While it is difficult to predict how the Scottish public as a whole might feel about such a change, a 2016 YouGov survey for *The Times* newspaper found that 38 per cent of Scottish adults surveyed thought there should be no place for worship in the education system (The Times, 2016). This, though, is problematic since Religious Observance need not mean acts of worship as the notion of Time for Reflection demonstrates.

Right to withdraw

Commented [CP4]: Just a thought, but perhaps the reference should be to the survey itself (if there is one) on the basis that it’s the primary reference ... for the newspaper is likely to be a secondary one.

Commented [f5]: I can’t find a primary reference for this.

Commented [H6]: I’m not quite sure how to reference this. I’ve put it in the reference list with the weblink that I got from HSS. To avoid inserting it in the body of the text I’ve done it that way, but this may work better as a footnote.

Difficulties with the accommodationist model.

Parents have the right to withdraw their children from both Religious Observance and R(M)E (Education (Scotland) Act 1980, s 9). The policy guidance makes clear that parents should be made aware of this right, that in no circumstances should a pupil be disadvantaged as a result of withdrawing, and that arrangements should be made for them to participate in a ‘worthwhile alternative activity’ (Scottish Government, 2011a: 14-17).

This mechanism for protecting the rights of parents who do not share the belief system espoused in Religious Observance is sometimes referred to as an ‘accommodationist’ model, and is recognised to be imperfect (McCarthy, 2011). A child who does not participate in the same activities may feel singled-out and be stigmatised by her peers (Canadian Civil Liberties Association, 1990; Zylberberg, 1988; McCollum, 1948). From a practical perspective, it can be extremely difficult for teachers to find something else for the child to do (Mawhinney, 2006). In recent jurisprudence in respect of Article 9 of the ECHR, the European Court of Human Rights has moved some way towards suggesting that, outside of faith schools, only secular education can meet the demands of Article 9 in religiously pluralist European society to avoid the difficulties which attend the accommodationist model, (Folgero, 2008; Zengin, 2008; Lautsi, 2010, 2011) but this attitude has also been criticised for equating ‘secular’ with ‘neutral’ rather than recognising it as a (non) faith-based approach in its own right (Ahdar & Leigh, 2005; Leigh, 2010).

Awareness of these difficulties was recently heightened in Scotland by a petition (PEO1487: Religious Observance in Schools (20 June 2013)) urging the Government to amend the Education (Scotland) Act 1980 by making Religious Observance opt-in rather than opt-out. The petition makes note of a 2012 YouGov poll commissioned by the Humanist Society Scotland in which 1,000 parents of Scottish children aged 5-16 were asked about their understanding of the right to withdraw pupils from RO and RME

Commented [CP7]: Could you include the reference for this poll?

Commented [f8]: Again, I can't find a primary reference for this, just HSS reporting of the results. Would a paid-for poll like this be made publicly available?

(<https://www.humanism.scot/what-we-do/research/religion-and-education-2012/>). In all, 39

per cent indicated that they were not aware this right existed. The petition also asserts that the requirement that a ‘worthwhile alternative activity’ be made available was not always fulfilled. The petitioner, Secular Scotland member Mark Gordon, noted his own experience:

My daughter is made to sit in the school office with paper and pencils to draw with and is ‘looked after’ by the school secretary since there are usually no teachers available.

In its response to the petition, the Scottish Government took the view that the policy and underlying legislation on this issue was relevant and up-to-date based on the evidence provided, but that work could be done on improving communication and implementation (McKechnie, K, 2013). It indicated that it would continue to work with Education Scotland, faith and non-faith groups to ‘identify examples of good practice and areas needing support’. The Education and Culture Committee, to whom the petition was subsequently referred, were in general agreement with the Government position, and identified communication with parents both as to the existence of the right and the types of ‘meaningful activity’ which could replace participation in Religious Observance as the heart of the issue (SP M EC 6 May 2014 4139-4142). The legislation accordingly remains unchanged. It is not clear whether communication with parents has, in fact, improved, though the most recent guidance on the provision of Religious Observance makes it very clear that schools ‘are expected to set a clear rationale for the approach taken’ in the school towards Religious Observance and that parents and carers must be informed of their right to withdraw their child from Religious Observance (Scottish Government, 2017: 4). Further, guidance is provided for schools about what should appear in school handbooks regarding the right to withdraw by the first schedule to the Education (School and Placing Information) (Scotland) Regulations 2012. Humanist Society Scotland, as part of their Enlighten Up campaign, have also produced two books

Commented [H9]: I’ve inserted the link to where HSS talk about the poll and the link to the main findings are on that page.

Commented [AM10]: Very happy to see them use this word! I wonder if they used it in previous guidance or did our report had any influence at all in leading them into this line of thinking?

Commented [H11]: The 2011 advice note to HTs says:

Schools and local authorities will have policies detailing their rationale and practices for the delivery of religious and moral education which are available and shared with parents, learners and the wider community.

Looks like just a rewording, though perhaps a stronger emphasis on the need for a rationale in relation to RO. I reckon the Humanists will have pushed this more than the report, I hate to say.

offering advice for non-religious parents and their children (Humanist Society Scotland, 2016).

From the Scottish inspection reports, it is rarely if ever clear what arrangements are in place for those children not participating in Religious Observance. This seems to pass without comment. Indeed, the heading under which Religious Observance is considered in the inspection reports is an interesting one: ‘Climate and relationships, expectations and promoting achievement and equality’. Of the other headings, known as aspects, about which the inspectors comment, ‘pastoral care’ or ‘partnership with parents and community’ may seem more appropriate than something that conflates achievement and equality with children’s religious practices and faith. Several of the inspection reports state that assemblies are used for Religious Observance and to celebrate pupils’ successes. This would imply, therefore, that a child withdrawn from Religious Observance does not have the opportunity to have her successes celebrated by her peers in the wide forum of an assembly. This, it appears, is inequitable; ironic, given the rhetoric around ‘...promoting achievement and equality’ and unacceptable given that guidance makes explicit that assemblies that celebrate successes should be distinct from those designed for Religious Observance (Scottish Government, 2017).

Parents’ rights vs children’s rights

A further potential issue with the right to withdraw which is beginning to receive attention in Scotland is the fact that the right can be exercised only by parents. The legislation makes no provision for the right to be exercised by the child herself, in contrast with the position south of the border, where sixth form pupils may exercise the right to be excused from worship on their own behalf (School Standards and Framework Act 1998, s 71(1B)). Humanist Society Scotland’s on-going campaign has resulted in a judicial review of the decision by the Scottish Government not to extend the parental right of withdrawal to

children. Their case is built on the assertion that the refusal to allow children to opt-out of Religious Observance breaches the European Convention on Human Rights and that the society is willing to test this.

Together, the Scottish Alliance for Children's Rights, has also recommended that the Scottish Government review their policy on Religious Observance. The most recent Concluding Observations from the United Nations Committee on the Rights of the Child, published in July 2016, make it clear that in order to satisfy children's rights legal provision must be repealed to ensure that 'children can independently exercise the right to withdraw from religious worship at school'. It is worth noting that children in Scotland have the right to be heard in respect of decisions affecting their lives, both by their parents (Children (Scotland) Act 1995, s 6) and at school (Standards in Scotland's Schools etc Act 2000, s 2(2)), with a child presumed sufficiently mature to form a view at age 12. The question arises as to what effect this may have in a situation where the child's view conflicts with that of her parents.

Some assistance may be obtained through consideration of the position on minority medical consent, where under 16s seek medical advice or treatment against the will of their parents. In Scotland, the Age of Legal Capacity (Scotland) Act 1991, s 2(4) provides that a child under 16 may consent to surgical, medical or dental treatment where, in the opinion of the treating practitioner, the young person understands the nature and possible consequences of the treatment. Authority exists for the proposition that once the child has established such understanding, her parent will no longer have any veto in respect of medical decisions (Houston, 1997). If this approach is correct in terms of physical health, it seems logically consistent to suggest a similar approach should be employed for questions of spiritual well-being or faith-based practices. If there comes a point at which a child is deemed sufficiently mature to have her own understanding of faith, there seems to be no reason why this should

not be respected within her educational provision notwithstanding that it may be contrary to her parents' views. Indeed, it could be argued that the test of maturity should be less stringent in the educational religious context, since the impact of any decision taken is less likely to be immediately life-threatening than in the medical context. Whether this is the position in law currently is doubtful, however: the legislative provision recognising the capacity of a mature minor to make medical decisions is not replicated for religious or educational decisions. On this point see also chapters xxx.

Commented [CP12]: This is an attempt to cross refer – please feel free to amend etc.

Commented [f13]: I'm happy to cross refer in this way – perhaps chapter numbers can be added once we know them?

Concluding Remarks

The position on Collective Worship in Scotland is distinct in some key respects from elsewhere in the UK. Most obviously, the statutory requirement for Religious Observance in schools is interpreted through policy guidance which states that account must be taken of all faiths and none, recognising that Time for Reflection may be a more accurate description of the practice than Religious Observance in some schools. In other respects, the challenges faced in Scotland mirror those through the UK. While Religious Observance is built within *Curriculum for Excellence*, it is not clear what form it does or should take across the various school contexts for those CfE serves. Evolving belief demographics raise difficult questions about how to implement RO in an educational system where Christian culture has historically been dominant. Perhaps most importantly, the increasing significance of children's rights demands greater attention be paid to the views of children, not just their parents or teachers, in determining the appropriate place for Religious Observance in Scottish schools.

It is clear that further research is required in Scotland in relation to Religious Observance, with children's voices heard alongside those of their parents and teachers. In the first place, research to establish current practices undertaken under the guise of Religious Observance, building on the pilot study conducted by Gilfillan et al (2013), seems an essential step towards proposing resolutions to some of the issues outlined above. In

conducting such research, particular attention should be paid to: (i) the views of children; (ii) the experiences of children of non-Christian faiths or of no faith; (iii) the arrangements in place for children who do not wish to participate in Religious Observance; and (iv) the differences in practice (if any) between denominational and non-denominational schools.

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Table 1: Religious affiliation in Scotland, 2001 and 2011 (numbers expressed in thousands)

Religion	2001		2011		Change	
	Number	Per cent	Number	Per cent	Number	% point
Church of Scotland	2,146	42.4	1,718	32.4	-428	-19.9
Roman Catholic	804	15.9	841	15.9	37	4.6
Other Christian	347	6.9	291	5.5	-56	-16.1
Buddhist	7	0.1	13	0.2	6	85.7
Hindu	6	0.1	16	0.3	11	166.7
Jewish	6	0.1	6	0.1	-1	0.0
Muslim	43	0.8	77	1.4	34	79.1
Sikh	7	0.1	9	0.2	2	28.6
Other religion	8	0.2	15	0.3	7	87.5
No religion	1,409	27.8	1,941	36.7	532	37.8
Religion not stated	279	85.5	368	7.0	89	31.9

Source: Office for National Statistics, 2001 Census data from KS07, 2011 Census data from KS209SCb.