

# Legal Framework, Rights and Responsibilities

## **For Headteachers, Governors and RE Subject Leaders**

A summary of the legal position with checklists for Headteachers, Governors and RE leaders (based on the national non-statutory guidance from the DfE)

### **The legal basis of RE in the curriculum**

Every maintained school in England must provide a basic curriculum (RE, sex education and the National Curriculum). This includes provision for RE for all registered pupils at the school (including those in reception classes and the sixth form), except for those withdrawn by their parents (or withdrawing themselves if they are aged 18 or over) in accordance with Schedule 19 to the School Standards and Framework Act 1998.

The key document in determining the teaching of RE in community and voluntary controlled schools is the locally agreed syllabus within the local authority (LA) concerned (Section 376-377). LAs must ensure that the agreed syllabus for their area is consistent with Section 375(3) of the Education Act 1996, which requires the syllabus to reflect the fact that the religious traditions of Great Britain are in the main Christian whilst taking account of the teaching and practices of the other principal religions represented in Great Britain.

In *voluntary aided schools with a religious character*, RE is to be determined by the governors and in accordance with the provisions of the trust deed relating to the school or, where there is no provision in the trust deed, with the religion or denomination mentioned in the order designating the school as having a religious character.

At *voluntary controlled schools with a religious character*, parents of any pupils at the school may request that they receive religious education in accordance with provisions of the trust deed relating to the school, and at voluntary aided schools with a religious character, parents of any pupils at the school may request that they receive religious education in accordance with the locally agreed syllabus. (School Standards and Framework Act 1998, Schedule 19. 3,4) Further advice on the application of these provisions may be sought from the local Standing Advisory Council on Religious Education (SACRE).

All academies are required, through their funding agreements, to teach RE:

- For academies without a religious character, this will be the locally agreed syllabus;
- For denominational academies with a religious character (Church of England or Roman Catholic — but also Muslim and most Jewish academies), this will be in line with the denominational syllabus;
- For non-denominational (such as Christian) faith academies this can be either of the above, depending on the wishes of the sponsor and what is agreed by ministers.

*(Religious education guidance in English schools:*

*Non-statutory guidance 2010, pages 15f)*

Schools are not obliged to provide RE to pupils who are under compulsory school age (section 80(2)(a) of the Education Act 2002), although there are many instances of good practice where RE is taught to these pupils.

Separate legislative provision on RE is made for maintained special schools. Regulations covering maintained special schools require them to ensure that, as far as practicable, a pupil receives RE.

**Governing bodies and headteachers**, like local authorities, must:

- ensure that RE is provided as part of the school's basic curriculum, following the appropriate syllabus as listed above;
- provide an annual report to parents or carers giving brief particulars of progress and achievements in all subjects including RE (Regulation 6 of the Education (Pupil Information) (England) Regulations 2005, SI 2005/1437).

In order to fulfil legal requirements in relation to this agreed syllabus, schools must provide religious education in accordance with the statutory programmes of study

### **The Right of Withdrawal from RE**

The parent of a pupil at a community, foundation or voluntary school has the right to request that the pupil be excused from all or part of the RE provided.

Schools should ensure that parents who want to withdraw their children from RE are aware that RE is taught in an objective way that is relevant to all pupils and respects their own personal beliefs. They should be made aware of the RE syllabus learning objectives and what is covered in the RE curriculum and should be given the opportunity to discuss this, if they wish. The school may also wish to review such a request each year, in discussion with the parents.

However, the right of withdrawal does not extend to other areas of the curriculum when, as may happen on occasion, spontaneous questions on religious matters are raised by pupils or there are issues related to religion that arise in other subjects such as history or citizenship.

The use of the right to withdraw should be at the instigation of parents (or pupils themselves if they are aged 18 or over), and it should be made clear whether it is from the whole of the subject or specific parts of it. Although legally no reasons need be given it would be reasonable for the school to seek a discussion with the parents in order to explore the reasons behind the request and ask what alternative provisions for appropriate Religious Education parents wish to provide or seek to be set in place.

Parents have the right to choose whether or not to withdraw their child from RE without influence from the school, although a school should ensure parents or carers are informed of this right and are aware of the educational objectives and content of the RE syllabus. In this way, parents can make an informed decision. Where parents have requested that their child is withdrawn, their right must be respected, and where RE is integrated in the curriculum, the school will need to discuss the arrangements with the parents or carers to explore how the child's withdrawal can be best accommodated. If pupils are withdrawn from RE, schools have a duty to supervise them, though not to provide additional teaching or to incur extra cost. Pupils will usually remain on school premises.

Where a pupil has been withdrawn, the law provides for alternative arrangements to be made for RE of the kind the parent wants the pupil to receive (Section 71(3) of the School Standards and Framework Act 1998). This RE could be provided at the school in question, or the pupil could be sent to another school where suitable RE is provided if this is reasonably convenient. If neither approach is practicable, outside arrangements can be made to provide the pupil with the kind of RE that the parent wants, and the pupil may be withdrawn from school for a reasonable period of time to allow them to attend this external RE.

Outside arrangements for RE are allowed as long as the LA is satisfied that any interference with the pupil's attendance at school resulting from the withdrawal will affect only the start or end of a school session.

If the school is a secondary school and parents have withdrawn a pupil from RE provided at the school and asked for alternative RE to be provided in accordance with the tenets of a particular religion or denomination, then the LA must either:

- provide facilities for the alternative RE to be given at the school unless there are special circumstances which would make it unreasonable to do so, or
- agree to outside arrangements being made as long as no financial burden falls on the LA or school as a result of these arrangements.

In the case of a pupil at a maintained boarding school where a sixth-former, or the parents of a pupil below the sixth form, requests that the pupil be allowed to receive RE in accordance with the tenets of a particular religion or denomination outside school hours, the governing body must make arrangements to give the pupil a reasonable opportunity to do so. This could involve making facilities available at the school, but any such arrangements cannot be funded out of the school's budget or by the local authority (LA) (Section 71 of the School Standards and Framework Act 1998).

## **Checklists**

See the following checklists to ensure you are meeting statutory and good practice requirements:

1. Governors and headteachers
2. Managing the right of withdrawal
3. Managing, planning, teaching and supporting RE
4. Monitoring and evaluating RE provision
5. Planning RE post-14

### Checklist for governors and headteachers

Governing bodies and headteachers, like local authorities, must:

- ensure that RE is provided as part of the school's basic curriculum, following the appropriate syllabus as listed above;
- provide an annual report to parents or carers giving brief particulars of progress and achievements in all subjects including RE (Regulation 6 of the Education (Pupil Information) (England) Regulations 2005, SI 2005/1437).

### **The following questions might form the basis of a discussion between headteachers governors and those responsible for teaching RE in the school:**

1. Do all pupils make progress in achieving the learning objectives of the RE curriculum?
2. Is RE well led and effectively managed?
3. Are standards, achievement and quality of provision in RE regularly and effectively self-evaluated?
4. Are those teaching RE suitably qualified and trained in the subject? Do they have regular and effective opportunities for CPD?
5. Are teachers aware of RE's contribution to developing pupils' understanding of religion and belief and its impact as part of the duty to promote community cohesion confront extremism,

and prepare pupils for life in our multi-cultural society: life in modern Britain.

6. Where appropriate, do pupils have opportunities to take courses leading to an accredited qualification in the subject?
7. Is clear information provided for parents on the RE curriculum and the right to withdraw?
8. Are teachers aware that they do not have to teach RE?
9. Is RE resourced, staffed and timetabled in a way that means the school can fulfil its legal obligations on RE and pupils can make good progress?
10. Where there are insufficient teachers in a school who are prepared to teach RE, does the headteacher ensure that pupils receive their RE entitlement?

### **Checklist for managing the right of withdrawal**

1. Does the request for withdrawal reflect on the quality of religious education provision within the school, parental understanding of its relevance, or its perceived status within the curriculum?
2. Does the school have a procedure in place for parents or carers who want to withdraw children from RE?
3. Is the school careful to ensure that RE is of educational value to all pupils, whatever their belief background, thus reducing the likelihood of parental/carers requests for withdrawal?
4. Does the school ensure that the nature, objectives and content of RE are shared with parents?
5. Are parents or carers notified about plans for RE as part of the curriculum for the coming session for their child's class?
6. Does the organisation of the curriculum allow parents to exercise the right of withdrawal?
7. What practical implications arise from a request by parents to withdraw a child from RE and how might they be addressed?
8. Are all those who teach RE aware of the school's procedures?
9. Are all teachers aware of their own right not to have to teach RE?

### **Checklist for people who manage, plan, teach and support RE**

1. **What implications do the school's ethos, values and aims have for the provision of RE?**  
For example, the school's specialist status, religious character, or the nature of the school's community.
2. **What about the school's overall curriculum priorities?**  
Are statutory requirements for RE being met?  
Is RE's contribution in terms of raising standards and achievement being taken into account?
3. **Will RE be taught separately, be combined with other subjects, or both?**
4. **Will RE be taught every week, term or year in the key stage?**  
Is the programme of study required by the agreed syllabus properly met?  
Is the provision evaluated as part of the school's self-evaluation process?
5. **What about curriculum design?**  
Does the RE curriculum ensure an appropriate balance between RE-led units, whether systematic or thematic, and cross-curricular units?
6. **How will the organisation of the RE curriculum be adapted to suit individual pupils with different abilities and needs?**  
For example, the needs of the most able pupils can be met by accelerating their learning, and the needs of less high-achieving pupils can be met by reinforcement techniques.
7. **How will the design of the RE curriculum help pupils to make a smooth transfer from**

### **one key stage to the next and to make steady progress within a key stage?**

For example, through the provision of bridging units to support transition from key stage 2 to 3.

#### **8. What about curriculum enrichment?**

What might need to be added to the RE curriculum to enrich pupils' learning in terms of, for example, fieldwork, Learning Outside the Classroom (LOtC), and special focus days?

### **Checklist for monitoring and evaluating RE provision**

- 1. Have RE curriculum decisions been based on the principles of effective planning?**  
Has there been sound application of these principles?
- 2. Can the parental right of withdrawal be accommodated, where necessary?**  
Does the model of curriculum delivery take into account how provision might be adapted?
- 3. Do pupils value and recognise the contribution RE makes to their understanding of different communities and ways of life, and to the concept of diversity?**
- 4. Do pupils have real opportunities to explore and gain first-hand experience of religious and cultural diversity?**
- 5. Does the school help pupils to deepen their understanding**
  - of their own beliefs and values?
  - of other people's?
- 6. Does RE provide a context to build relationships with the local communities** - including those groups with whom it is more difficult to forge links?
- 7. Within the school, does RE provide a voice for religious and other minority groups?**  
Does it develop a culture of mutual understanding and respect?
- 8. Does the school treat religion and belief seriously?**  
Does it model ways of building respect?
- 9. Does the school know enough about the diversity of religion and ethical perspectives within the local community?**  
Does it explore ways of making links with those communities?
- 10. In a largely mono-cultural school, how well is RE working to foster a broader awareness of cultural and religious diversity?**

### **Checklist for planning RE post 14**

#### **Do the pupils have opportunities to:**

1. reflect on, express and justify their own opinions and beliefs about religion and religious, philosophical, moral and spiritual questions?
2. develop their own values and attitudes so that they can recognise their rights and responsibilities in light of their learning about religion and belief?
3. relate their learning to the wider world, gaining a sense of personal autonomy in preparation for adult life?
4. develop skills that are useful in a wide range of careers and in adult life generally, especially skills of critical enquiry, creative problem-solving, and communication in a variety of media?
5. have their achievements in RE recognised by an approved qualification?

#### **If the pupil is to study RE wholly or partly in a further education college:**

1. has appropriate provision been made?

2. is it coherent and of good quality?

**If a parent or post 16 student has exercised their right of withdrawal:**

1. Has this been taken into account in RE planning?