

Labour Party call for evidence on improving teacher quality: comments from British Humanist Association and Labour Humanists

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About us

The **British Humanist Association** (BHA) is the national charity working on behalf of non-religious people who seek to live ethical and fulfilling lives on the basis of reason and humanity. We promote Humanism, support and represent the non-religious, and promote a secular state and equal treatment in law and policy of everyone, regardless of religion or belief. Founded in 1896, we have around 30,000 members and supporters, and over 70 local and special interest affiliates.



The BHA has a long history of work in education, children's rights and equality, with expertise in the 'religion or belief' strand. We have been involved in policy development around RE for over 60 years. We also provide materials and advice to parents, governors, students, teachers and academics, for example through <http://www.humanismforschools.org.uk/> and our school volunteers programme. We have made detailed responses to all recent reviews of the school curriculum, and submit memoranda of evidence to parliamentary select committees on a range of education issues.

Labour Humanists brings like-minded people together to influence Labour Party policy on key humanist and secularist issues. We are affiliated to the British Humanist Association and we aim to become an affiliated society of the Labour Party. Our supporters come from across Labour, and include many elected representatives, all of whom share a humanist outlook and a desire to see a more equal society with no religious privilege or discrimination in public life and public services. We are committed to advocating an inclusive and accommodating education system, and opposing religious discrimination in admissions and employment by state-funded faith schools.

Summary

We focus our comments on:

- Qualified Teacher Status, and the dangers of allowing schools to employ people who are not sufficiently qualified but are appointed due to holding certain religious opinions.
- 'Faith' schools' ability to require a large proportion (typically all) of teaching staff to share the faith of the school, regardless of whether it is appropriate. We think this is unfair on teachers and young people, and also probably contravenes EU law. The European Commission is currently investigating this matter.

Qualified Teacher Status

Labour has committed to 'ensure that all teachers in state schools will be qualified or work towards achieving Qualified Teacher Status' (QTS). We have been concerned for some time about some examples where the absence of any requirement for teachers to be qualified have led to some schools appointing teachers who are not well qualified for the job but are instead appointed due to their religious beliefs – much as is often seen in the private sector. Coupled with the general freedoms that Academies and Free Schools enjoy over the curriculum, this could lead to 'faith' schools choosing to hire a rabbi, priest or imam to teach Religious Education instead of someone

who has a professional qualification in the subject. An example of this that has happened that has been cited repeatedly by Tristram Hunt is the Al-Madinah School in Derby, where a third of teachers do not hold QTS.¹

While it is outside of the remit of the BHA to endorse a particular qualification scheme, to have situations like Al-Madinah arise, where teachers can be employed who do not meet any minimum standard but are instead appointed on account of their religious opinions, would be to let future generations down.

Religiously reserved teachers

A broader concern is the ability of 'faith' schools to require a large proportion of staff to share the faith of the school, whether there is a genuine occupational requirement (GOR) or not. While Voluntary Controlled and Foundation schools and Academies that converted from VC or Foundation status can require up to a fifth of teachers to be of the same faith, Voluntary Aided schools, Free Schools, other Academies and independent schools can require every single teacher to be of a certain faith. This is thanks to an exemption in the Equality Act 2010 from the law requiring all other establishments to only discriminate in this manner where GOR can be demonstrated.² This seems to us to be unfair, likely to be in contravention of European Union law, and against children's best interests.

The use of this ability to discriminate is widespread. For example, the Catholic Education Service for England and Wales, the largest provider of secondary schools in England and second largest provider of primary schools, in their standard teacher (i.e. other than for senior staff) application form, asks applicants to give their 'Religious Denomination / Faith'. It later adds

'Schools/Colleges of a Religious Character are permitted, where recruiting for Teaching posts, to give preference to applicants who are practising Catholics and, therefore, one [referee] should be your Parish Priest/the Priest of the Parish where you regularly worship.'³

The notes to applicants that stand alongside this add:

'Schools/Colleges of a Religious Character in England and Wales are permitted by law to require certain posts to be filled by practising Catholics.

'Senior Leadership posts – Applicants are advised that the 'Memorandum on Appointment of Teachers To Catholic (Voluntary Aided and Independent) Schools' (October 2012), provides that 'the posts of Headteacher, Deputy Headteacher and Head or Coordinator of

¹ 'Al-Madinah free school in Derby to stop secondary education', *BBC News Online*, 7 January 2014: <http://www.bbc.co.uk/news/uk-england-26083099> - 'Tristram Hunt MP, shadow education secretary, said the Al-Madinah school proved the government's policy was damaging education because of "unqualified teachers" and a "lack of oversight".'

² Specifically, paragraph 4 of schedule 22:

<http://www.legislation.gov.uk/ukpga/2010/15/schedule/22/paragraph/4>

The law on GOR is specified in schedule 9, particularly paragraphs 1 and 3:

<http://www.legislation.gov.uk/ukpga/2010/15/schedule/9>

This in turn is an exception from section 39, which precludes employers from discriminating against employees: <http://www.legislation.gov.uk/ukpga/2010/15/section/39>

³ http://www.catholiceducation.org.uk/schools/application-forms/item/download/18932_9c0f9154017d1f0394355de668a2264f - pages 3 and 12

Religious Education are to be filled by baptised and practising Catholics'. The Memorandum may be viewed by visiting the CES's website at www.catholiceducation.org.uk.

'Teacher posts – Applicants are advised that schools/colleges are entitled to give priority to practising Catholic applicants.

'Support Staff posts [i.e. non-teacher posts not covered by the 1998 Act] – Applicants are advised that schools/colleges (in England only) are entitled to give priority to practising Catholic applicants where it can be demonstrated that it is a proportionate means of achieving a legitimate aim (commonly known as a "genuine occupational requirement").'⁴

Finally, Christ at the Centre, published by the Catholic Education Service in 2013, says that

'The Bishops require that the Headteacher or Principal, Deputy Headteacher or Vice-Principal, and Head of RE/RE Co-ordinator must be practising Catholics. Preferential consideration should also be given to practising Catholics for all teaching posts and for non-teaching posts where there is a specific religious occupational requirement, i.e., chaplaincy post. In England and Wales statutory provision allows for such preferences to be made.'⁵

The Catholic Education Service's meaning is clear: every teacher in every Catholic school can be required to be a Catholic. It is also stated that schools should give preferential treatment to Catholics for every teaching post in the first instance.

And yet this is plainly unfair because there is no obvious reason while it needs to be the case for every single teacher at a school to be of a certain faith. Can it really be right that the maths teacher, the English teacher or the geography teacher is forced to be of a certain faith? Particularly telling is the fact that in Catholic schools, preferential consideration is given to those of a certain faith, but if no suitable candidates of that faith are found, then someone not of the faith is employed instead. This suggests that there was no genuine occupational requirement in the first place – because if the occupational requirement was genuine, then it would not be possible to drop it as soon as a school finds it cannot be filled.

This leads on to the point that such discrimination is likely unlawful. Article 4 of the European Employment Directive only allows for faith-based discrimination where a genuine occupational requirement can be demonstrated.⁶ UK law implements this directive in the Equality Act, except for the exemption for schools designated with a religious character which allows them to discriminate much more widely. As a result of this apparent breach of EU law, in 2010 we complained to the European Commission, asking them to investigate the matter. In 2012 the Commission took up our complaint and launched a formal investigation.⁷

We often get complaints from teachers whose job opportunities are restricted as a result of such employment discrimination. Particularly problematic is the situation with respect to senior staff, where 'faith' schools are less willing to employ someone not of the faith if the only suitable

⁴ http://www.catholiceducation.org.uk/schools/application-forms/item/download/18930_9d58270f8a405d92da1b37f6947b40da

⁵ http://www.catholiceducation.org.uk/catholic-education/publications/item/download/18680_d176c293fbf2a5bb46e2eb21e9b72970

⁶ Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:303:0016:0022:en:PDF>

⁷ 'European Commission to investigate whether "faith" schools break European employment laws' <https://humanism.org.uk/2012/07/24/news-1084/>

candidates have different religions or beliefs (even if a GOR still could not be demonstrated). This stubbornness means there is a shortage of senior staff at 'faith' schools. Just this past month there has been a 'Catholic school leadership crisis' in Cardiff;⁸ comments from the chief executive of the National Governors Association that 'faith schools, in particular Catholic' are a 'problem area for recruiting heads';⁹ and just this morning, questions of 'Where have all the Jewish primary school headteachers gone?... There are currently six Jewish primaries in the UK without a substantive head running their schools.'¹⁰ Muslim, Hindu and Sikh schools, only recently to enter the state sector, have made up for the consequential shortage of highly qualified teachers of their respective faiths by typically employing heads of other faiths or no faith. That they can do so demonstrates that there are no genuine occupational requirements on these roles – in other words, the crisis faced by some 'faith' schools is of their own making.

The final point is that it is not only unfair on teachers that schools to pass over the best applicant for a particular teaching job in order to hire someone who shares the faith of the school. It is also unfair on children, who are denied that applicant as well. This conclusion may seem somewhat inexplicable, given the strong academic results of some religious schools, but the evidence suggests that any difference in performance between schools with and without a religious character is purely a consequence of the pupils they admit. The evidence suggests that this difference is in turn a result of the socio-economic selection that religiously selective admissions policies enable.¹¹

In summary, faith-based discrimination in employment is unfair on teachers and pupils, unnecessary, and in all likelihood usually unlawful.

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⁸ Gareth Evans, 'Catholic schools face leadership crisis', *Western Mail*, 10 January 2014: <http://www.walesonline.co.uk/news/local-news/catholic-schools-face-leadership-crisis-6489731>. Past month at date of drafting, 6 February 2012

⁹ Richard Garner, 'Exclusive: Outstanding schools struggle to fill headteacher jobs because applicants 'can't spell'', *The Independent*, 26 January 2014: <http://www.independent.co.uk/news/education/education-news/exclusive-outstanding-schools-struggle-to-fill-headteacher-jobs-because-applicants-cant-spell-9086407.html>

¹⁰ Robert Leach, 'Where have all the Jewish primary school headteachers gone?', *Jewish News*, 6 February 2014: <http://jewishnews.co.uk/where-have-all-the-jewish-primary-school-headteachers-gone/>. Morning of date of drafting.

¹¹ In 2009 the House of Commons Research Library concluded that any difference in academic performance between faith schools and other schools is solely due to the different intakes of each school, which, it said, is 'due to parental self-selection and selection methods used by some faith schools':

<http://www.parliament.uk/briefing-papers/SN04405.pdf%E2%80%8E>

This conclusion has been reinforced since by Steve Gibbons and Olmo Silva whose 2011 paper 'Faith primary schools: better schools or better pupils?' found that 'pupils progress faster in Faith primary schools, but all of this advantage is explained by sorting into Faith schools according to preexisting characteristics and preferences':

<http://www.jstor.org/discover/10.1086/659344?uid=3738032&uid=2&uid=4&sid=21102555699737>

They also write 'Any benefit of attending a faith primary school is linked to the more autonomous governance arrangements that characterise 'voluntary aided' schools (such as control over admissions procedures). Pupils in religiously affiliated schools that broadly fall under the control of the local education authority – that is, 'voluntary controlled' schools – do not progress faster than pupils in secular primary schools':

<http://cep.lse.ac.uk/pubs/download/cp228.pdf>