

Objective, critical and pluralistic?

How the Department for Education defies the law on Religious Education in non-faith schools

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On 25 November 2015 the High Court ruled against the Secretary of State for Education in a judicial review ([2015] EWHC 3404 (Admin)) backed by the British Humanist Association that was widely reported as requiring Humanism to be taught alongside world religions in religious education in non-faith schools. From the start, however, the Department for Education downplayed the importance of the judgement and two days after Christmas issued guidance to local authorities maintaining that the case had changed nothing. In this paper I explain the political and legal background to the case, how it used a claim about a new specification for GCSE Religious Studies to obtain a court ruling on the legal scope of statutory religious education, and how the Department for Education's current position is based on a narrow technicality, ignoring the thrust of the judicial review.

The UK has no constitution, or rather the constitution is unwritten and evolves as circumstances require. It is therefore a land governed not by principle but by pragmatism and power-broking. The evolution of our school system is a case in point. There was the struggle for power between the Church of England and the non-Conformists throughout the 19th century that for decades sidelined both Parliament and government as ineffective onlookers. In 1870, 1902 and again in 1944 deals were done resulting in compromises between religious interests with the power of possession and educationists and administrators seeking an efficient school system.

The 1944 Act provided near-total public funding for religious schools. But it also imposed a religious settlement on what were then called county schools. It required daily acts of collective religious worship and imposed on all pupils religious instruction (RI) that was originally unashamedly confessional instruction in Christianity. Local syllabuses for RI were drawn up by essentially political Agreed Syllabus Conferences (ASCs) on which groups representing the Church of England, all other religious denominations, the teachers and the local authority each had one vote. (In Wales there was no Church of England group.)

In the following decades under pressure from RI teachers and (among others) the British Humanist Association, whose 1975 publication *Objective, Fair and Balanced* was influential, the subject evolved into a nominally educational one, and the 1988 Education Reform Act changed its name to 'religious education' (RE). The Agreed Syllabus Conferences are unchanged, however, and the subject remains focussed almost entirely on religion, ignoring the non-religious lifestyles that a rapidly growing number of people, especially young people, adopt as an alternative to religious beliefs¹. Some people -

¹ British Social Attitudes annual surveys from 1983 show that the proportion of people without a religion grows by decade of birth with about 60% of those born in the 1980s having no religion - see <http://www.brin.ac.uk/2013/british-social-attitudes-survey-2012/> (accessed 8 April 2016).

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notably the Birmingham RE establishment: SACRE, ASC and city legal department - see this as right and proper, and they typically argue from the name of the subject: it is, after all, *religious* education.

However, the RE profession, educationists and many religious bodies have long realised that if the subject is to be truly educational it cannot arbitrarily ignore the non-religious end of the spectrum of so-called ultimate beliefs - the more so since about half the population and two-thirds of young people have no religion.

Indeed, in 2010 the Department for Education issued non-statutory guidance on RE² that was cast in terms of 'religion or belief' of which there should be a 'wide ranging study across key stages as a whole'. Then in 2013 the Religious Education Council (REC) published a Review of Religious Education in England³ which explicitly stated that the subject matter should be 'religions and worldviews' including 'non-religious worldviews such as Humanism. The phrase is meant to be inclusive'. Moreover, the then Secretary of State Michael Gove in a foreword to the Review said 'All children need to acquire core knowledge and understanding of the beliefs and practices of the religions and worldviews which not only shape their history and culture but which guide their own development.'⁴ This was in the context of the Review defining 'religions and worldviews' as referring to 'Christianity, other principal religions represented in Britain, smaller religious communities and non-religious worldviews such as Humanism'.

But the argument is not one only from fairness and educational values. It is also a matter of law. Section 3 of the Human Rights Act stipulates that

So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the Convention rights.

Ever since the Act came into effect, the British Humanist Association has been arguing that section 3 requires substantial changes to the customary interpretation of various laws, not least that 'religious education' has now to be construed in law as 'education about religion and belief'. We have repeatedly put this case to the Department for Education (DfE) but its lawyers have stubbornly refused to see the point. We have therefore been looking for an opportunity to test our contention in court. The occasion arose last year.

The DfE had embarked on a wholesale re-specification to the examination boards of the content of GCSE syllabuses. (They dealt also with AS and A levels, but these are not relevant to the present paper.) When it came to the religious studies syllabus, their draft⁵ focussed almost exclusively on religions, with non-religious beliefs present only as a foil. The main world religions each merited a detailed annex setting out what students should learn about them but there was no such annex for Humanism - though, in response to the BHA's representations, officials invited us to provide a draft and, after a rapid consultation with experts, we sent them one that was academically at least as rigorous as the drafts

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/190260/DCSF-00114-2010.pdf, accessed 3 May 2016

³ <http://resubjectreview.recouncil.org.uk/re-review-report>, accessed 3 May 2016

⁴ He continued: 'This RE curriculum framework . . . has the endorsement of a very wide range of professional organisations and bodies representing faiths and other worldviews. I hope the document will be useful to all those seeking to provide RE of the highest quality for young people in our schools.'

⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/403357/GCSE_RS_final_120215.pdf (February 2015) (accessed 8 April 2016)

about religions.

We were not alone in opposing the DfE's plan: almost 90% of the consultation responses rejected the proposed course content and supported inclusion of Humanism. Twenty-eight religious leaders, including former Archbishop of Canterbury Rowan Williams and former Bishop of Oxford Richard Harries, wrote to the Schools Minister Nick Gibb

to express our support for proposals to allow students to have the option for systematic study of Humanism in GCSE, AS and A level religious studies, and for an annex setting out content on Humanism to be added alongside existing GCSE annexes on the principal world religions.⁶

But in February 2015 the DfE rejected the weight of public and expert opinion and explained:

we have decided not to include the optional systematic study of non-religious beliefs alongside religious beliefs in the subject content. We believe this would not be a suitable addition to the content, given the nature and purpose of a qualification in religious studies. . . these are qualifications in Religious Studies, it is right that the content primarily focuses on developing students' understanding of different religious beliefs. . . A simultaneous focus on humanism would detract from an in-depth treatment of religion and the comparative study of two religions, and thus on [*sic*] the overall rigour and standard of the qualification. . .⁷

This decision was greeted with widespread dismay, but it gave us our opportunity to get a legal ruling on the content of RE. Or rather, it was not the specification of the content of the GCSE RS course as such that gave us that opportunity: after all, GCSEs are academic subjects and as such can be as wide or narrow as you wish. Instead, it was an assertion the DfE made in their guidance. What they said was:

the subject content is consistent with the requirements for the statutory provision of religious education in current legislation as it applies to different types of school.⁸

⁶ <https://humanism.org.uk/2015/02/05/rowan-williams-heads-religious-leaders-call-fair-study-humanism-schools/> (accessed 8 April 2016)

⁷ In full: 'After careful consideration, we have decided not to include the optional systematic study of non-religious beliefs alongside religious beliefs in the subject content. We believe this would not be a suitable addition to the content, given the nature and purpose of a qualification in religious studies. Students already have the opportunity to learn about non-religious worldviews, such as humanism and atheism, alongside religious beliefs and we have emphasised this opportunity in the content. However, as these are qualifications in Religious Studies, it is right that the content primarily focuses on developing students' understanding of different religious beliefs. This is to stop current practice whereby students are rewarded for engaging in topical debates with virtually no understanding of religious teachings, beliefs or texts. A simultaneous focus on humanism would detract from an in-depth treatment of religion and the comparative study of two religions, and thus on the overall rigour and standard of the qualification. Introducing a systematic study of humanism at GCSE and A level could potentially lead to qualifications that are predominantly focused on the study of humanism at the expense of religion. Thus, whilst the subject content provides for the study of non-religious world views, it is intended that this should not form the focus for the majority of study.' The consultation response is at page 20 of https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/403347/Reformed_GCSE_and_A_level_subject_content_Government_response.pdf (accessed 8 April 2016).

⁸ "Religious studies - GCSE subject content", February 2015, at paragraph 2 - see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/403357/GCSE_RS_final_120215.pdf (accessed 29 April 2016).

Later in the proceedings the DfE was even more explicit:

schools will plainly be able to lawfully decide to adopt an RS GCSE specified in accordance with the new Subject Content as the entirety of their RE provision for Key Stage 4 (provided it is consistent with the agreed syllabus for their area) ...⁹

The BHA - or rather, three parents and their three children backed by the BHA - therefore launched a judicial review, challenging of the lawfulness of this assertion.

The case¹⁰ was heard in the High Court on 10 November 2015. The BHA's argument was based first on established case law¹¹ that if the government issues 'guidance which would lead to, or which permits or encourages, unlawful conduct'¹² then the Court may grant relief.

More relevantly it was based on s3 of the Human Rights Act and on the European Convention on Human Rights. Article 9 of the Convention is concerned with 'religion or belief' and it is of course long established that it is 'a precious asset for atheists, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it.'¹³ Similarly, Article 2 of Protocol 1 (A2P1) requires that 'no person shall be denied the right to education' and goes on to require the State insofar as it involves itself in education to respect parents' 'religious and philosophical convictions'. These provisions therefore require the law on RE to be read to refer to *religion and belief*, thus including non-religious worldviews.

Moreover, the requirement is not merely to include those wider beliefs, but to do so in an equitable and non-partisan way: it is not for the state to elevate religions above non-religious worldviews, particularly in school teaching. Our counsel quoted Lord Nichols¹⁴ in 2005 discussing Article 9 (incidentally, in the context of education):

The atheist, the agnostic, and the sceptic are as much entitled to freedom to hold and manifest their beliefs as the theist. These beliefs are placed on equal footing for the purposes of this guaranteed freedom.

He added:

... the position is much the same with regard to the respect guaranteed to a parent's

⁹ In their Summary Grounds of Resistance (8 June 2015) at 19.

¹⁰ [2015] EWHC 3404 (Admin) - see <https://www.judiciary.gov.uk/wp-content/uploads/2015/11/r-fox-v-ssfe.pdf> (accessed 3 May 2016)

¹¹ *Tabbakh v The Staffordshire and West Midlands Probation Trust* [2014] 1 WLR 4620; *R (Letts) v The Lord Chancellor* [2015] EWHC 402 (Admin); *A v Secretary of State for Health* [2009] EWCA Civ 225 [78]

¹² LJ Warby in his judgement at 7.

¹³ 'As enshrined in Article 9, freedom of thought conscience and religion is one of the foundations of a 'democratic society' within the meaning of the Convention. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it.' - *Kokkinakis v Greece*: (1994) 17 EHRR 397, para 31

¹⁴ *Williamson v Secretary of State* [2005] AC 246 [24]

‘religious and philosophical convictions’ under article 2 of the First Protocol.

In the same case Lady Hale¹⁵ said [75]:

Both article 9 and the First Protocol are careful not to distinguish between religious and other beliefs or philosophical convictions, nor do they elevate religious beliefs above others.

Since then the European Court of Human Rights itself has similarly adopted a broad understanding of the meaning of ‘religious and philosophical convictions’. In *Folgero v Norway*¹⁶ the Grand Chamber held that the second sentence of A2P1:

... aims in short at safeguarding the possibility of pluralism in education which possibility is essential for the preservation of the ‘democratic society’ as conceived by the Convention. In view of the power of the modern state, it is above all through state teaching that this aim must be realised. . . The verb ‘respect’ means more than ‘acknowledge’ or ‘take into account’. In addition to a primarily negative undertaking, it implies some positive obligation on the part of the State.

The Grand Chamber noted that Norway gave Christianity much more attention than any other religion or belief but held that this was legitimate given the State’s margin of appreciation and ‘the place occupied by Christianity in the national history and tradition’ of Norway: if this was ‘a departure from the principles of pluralism and objectivity’ then it was a justified one.

Similarly in *Zengin v Turkey*¹⁷ the European Court of Human Rights again emphasised ‘the State’s duty of impartiality and neutrality towards various religions, faiths and beliefs ...’, placing all religious and all non-religious views on an equal footing and treating them impartially, particularly given that the State, through teaching in its schools, seeks to mould the character of its pupils - but as in *Folgero* the ‘greater priority [given] to knowledge of Islam’ was justified by ‘the fact that, notwithstanding the State’s secular nature, Islam is the majority religion practised in Turkey.’

The case law therefore makes clear that the state must be impartial and neutral as between different religious and non-religious world views, not least when it comes to the state school curriculum, but may give greater priority to the knowledge of a religion which has a particular place in the history and culture of the country or which is the majority religion practised in the country. The BHA therefore accepts as legitimate that the law here requires agreed syllabuses to ‘reflect the fact that the religious traditions in Great Britain are in the main Christian’¹⁸, thus giving a greater priority to Christianity (given England’s history and demography) than to all other religions and all non-religious world views.

The trouble for the Secretary of State, we contended, arose when she sought in her GCSE subject content not just to give priority to Christianity over non-religious beliefs but to extend that priority to all the other so-called world religions - including, for example, Buddhism, to which according to the 2011 Census only 0.4% of the population belong. Indeed, the Census shows that the five non-Christian

¹⁵ *ibid*, [75]

¹⁶ 2007 - application number 15472/02, at 84 and 89.

¹⁷ 2008 - application number 1448/04, at 54, 55 and 63.

¹⁸ Education Act 1996, sn. 375(3). The formula was introduced in the Education Reform Act 1988.

GCSE religions together account for only 8% of the population, yet each of them (not even all of them together) was being given priority over all non-religious beliefs. This prioritisation of religion was legitimate within an academic subject, but the Secretary of State was contending that studying her Religious Studies GCSE would fulfil the statutory requirement for RE in state non-faith schools at Key Stage 4.

The Court accepted the BHA's case (or rather, that of our three parents and three pupils). Summarising the case law, Mr Justice Warby said in his judgement, published on 25 November:

Taken overall, the human rights jurisprudence establishes the following points of relevance to this claim. In carrying out its educational functions the state owes parents a positive duty to respect their religious and philosophical convictions; the state has considerable latitude in deciding exactly how that duty should be performed, having regard among other things to available resources, local conditions and, in particular, the preponderance in its society of particular religious views, and their place in the tradition of the country; thus, the state may legitimately give priority to imparting knowledge of one religion above others, where that religion is practised or adhered to by a majority in society; but the state has a duty to take care that information or knowledge included in the curriculum is conveyed in a pluralistic manner; subject to certain threshold requirements, immaterial here, the state must accord equal respect to different religious convictions, and to non-religious beliefs; it is not entitled to discriminate between religions and beliefs on a qualitative basis; its duties must be performed from a standpoint of neutrality and impartiality as regards the quality and validity of parents' convictions. [39]

The judge dealt easily with the Secretary of State's counter-arguments. Her counsel tried to maximise the discretion left to the State under the margin of appreciation and to suggest (rather less than wholeheartedly) that though the duty of the State was to ensure that 'that information or knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner' (as contended by the claimants) the test of this, established in a 1976 case, was whether the State was 'pursu[ing] an aim of indoctrination that might be considered as not respecting parents' religious and philosophical convictions'¹⁹: the boundary, the judge said, lay far short of indoctrination, as shown in the more recent cases. In *Folgero* there was no finding - no allegation, even - of an intent to indoctrinate, but Norway had fallen short of the requirement for religious education to be 'objective, critical and pluralistic'. The judge said: 'A fair balance allows the state to accord appropriate weight to majority views, but does not permit it to treat the views of minorities in a way that is significantly different at the qualitative level.' [33]

He rejected a procedural argument that the challenge should fail as speculative, premature or misdirected, likewise that the claimants' right to withdraw their children from RE protected the Department - what they were claiming was after all the 'right to equal treatment in state education provision' [61] and 'an opt-out is not an adequate substitute for the provision of an educational programme which accords the Parents their right to respect for their convictions. The need to withdraw a Child would be a manifestation of the lack of pluralism in question'. [79]

He held that 'the ordinary and natural meaning' of the DfE guidance was 'that a GCSE specified in accordance with The Subject Content will satisfy the state's legal obligations for RE' [66] and that that claim was 'materially misleading' [68]: it might be possible for a GCSE within the specification to meet

¹⁹ Kjeldsen, Busk Madsen and Pedersen v Denmark (1976) 1 EHRR 711 at 53.

the requirements of the law but this was far from necessarily so.

The Strasbourg jurisprudence shows that the duty of impartiality and neutrality owed by the state do not require equal air-time to be given to all shades of belief or conviction. An RE syllabus can quite properly reflect the relative importance of different viewpoints within the relevant society. The same would seem to follow for a region or locality. The duty might therefore be described as one of 'due' impartiality. . . In addition, of course, a generous latitude must be allowed to the decision-maker as to how that works out in practical terms. But the complete exclusion of any study of non-religious beliefs for the whole of Key Stage 4, for which the Subject Content would allow, would not in my judgment be compatible with A2P1.

It is not of itself unlawful to permit an RS GCSE to be created which is wholly devoted to the study of religion. That is not the claimants' case. But The Assertion tells its readers that such a GCSE will fulfil the entirety of the state's RE duties. As already noted, this is a proposition that is likely in practice to be accepted and acted upon by ASCs and schools. The Assertion thus represents a breach of the duty to take care that information or knowledge included in the curriculum is conveyed in a pluralistic manner. . . [74-75]

The proposed GCSE might 'give priority to the study of religions (including some with a relatively very small following and no significant role in the tradition of the country) over all non-religious world views (which have a significant following and role in the tradition of the country).' [77] And the Department's contention that GCSE RS at Key Stage 4 was only part of the religious education a pupil would receive over her or his school career was insufficient to save it: 'it is obvious that GCSE is a vitally important stage in the development of a young person's character and understanding of the world. I do not consider it could be said that a complete or almost total failure to provide information about non-religious beliefs at this stage could be made up for by instruction given at earlier stages.' [78]

The judge concluded:

In my judgment The Assertion contains a false and misleading statement of law, which encourages others to act unlawfully. In its ordinary and natural meaning The Assertion tells its readers that delivery of RS GCSE content . . . will fulfil the state's legal obligations as to RE. That is likely to lead those responsible for RE syllabus content to rely exclusively on GCSEs specified in accordance with the Subject Content. That could be enough to meet the state's RE obligations but, contrary to the Assertion, it will not necessarily be so. GCSE specifications could be compliant with The Subject Content and yet fall short of delivering the RE obligations. In that event, the state would need to afford some additional educational provision or fail in its duties. [81]

What happened next?

First, it was widely reported that in future Humanism would have to be taught alongside world religions in religious education in non-faith schools. That indeed was what the Court had said was required in order to conform with the European Convention on Human Rights. But the DfE ignored that altogether. The action had been on the matter of its claim that the GCSE would meet the requirement for statutory RE - so it concentrated on that narrow issue alone. It went into overdrive in a misleading campaign to play down the significance of the judgement.

Its press office accused the Press Association and the BBC of getting the story wrong in reporting (to

quote the PA flash tweet): 'Education Sec Nicky Morgan made "an error of law" by leaving "non-religious world views" out of new religious studies GCSE - court'. This was technically wrong - the error lay in their assertion about statutory RE - and the DfE were technically correct in saying 'Today's judgment does not challenge the content or structure of that new GCSE, and the judge has been clear it is in no way unlawful. His decision will also not affect the current teaching of the RS GCSE in classrooms.' But the first point was very narrow and the second irrelevant, and the DfE continued - and continue to this day - to deny the wider significance of the judgement. In a confused situation they actively sought to create confusion. They contacted journalists to belittle the case and even phoned the BHA to object to our accurate reporting. They put out a press notice that was deliberately misleading and remarkable for what it omitted - most notably by entirely ignoring the legal requirements for RE on which the technical finding was based. They seized on a small comment by the judge to say: 'The judge made clear that there was no requirement in either domestic or human rights law to give "equal air time" to all shades of belief (directly contradictory to what BHA have said in its press release).' We had never said anything like that.²⁰ At a conference for heads and deputy heads the DfE's deputy director of qualifications and curriculum accused the BHA (we were told by an eye-witness) of 'totally blowing the issue out of proportion' and confusing teachers.

Within two days the DfE had sought permission to appeal and even tried to get out of paying our costs. The judge refused leave to appeal and granted us 90% of our costs. The Department said they would seek permission to appeal direct from the Appeal Court - but that was either a cover or else they thought better of it, because on 28 December they published a short supplementary guidance document, correcting their technical error but defiantly asserting that nothing else needed to change, and announcing that there was therefore no need to continue with their appeal. What is more, they had concerted this astonishing refusal to take on board the substance of the judgement with the Church of England, the Roman Catholic Church and the Board of Deputies of British Jews, who all provided supportive quotes for their press release. Naturally they had not said a word to the BHA or to the litigant families.

The press release²¹ was a model of spin. Headlined 'Faith groups back move to protect religious education freedom', it called the department's new guidance 'robust' (maybe a code word for pig-headed!) and said it 'protect[ed] the freedom of schools to set their religious studies curriculum in line with statutory guidance and in accordance with the wishes of parents' (ignoring that in law non-faith schools have no such freedom but are obliged to teach their local agreed syllabus). The judgement had been on 'a narrow, technical point, the meaning of which the Department for Education has now clarified . . . schools will not have to change their religious education curriculum . . . there is no need to give non-religious world views equal parity with religious world views in education.' It denied the claim of 'some campaign groups' that 'non-religious beliefs such as humanism must be taught on a par with study of religion' - claims defensible only by giving a very particular meaning to *equal parity* and *on a par* - and said that the guidance made clear that 'schools can continue to prioritise the teaching of major faiths over non-religious world views such as humanism' - an adventurous claim to make in respect of non-Christian faiths.

²⁰ The phrase 'equal air-time' came from the judgement [74] as quoted above. What we had said was 'religious education syllabuses . . . will now have to include non-religious worldviews such as humanism on an equal footing' and we quoted the judge: 'the state must accord equal respect to different religious convictions, and to non-religious beliefs'.

²¹ <https://www.gov.uk/government/news/faith-groups-back-move-to-protect-religious-education-freedom> (accessed 8 April 2016)

The new guidance²² itself purported to protect the legally mythical freedom of schools to determine how to teach RE. It said 'The Government considers the judgment to have no broader impact on any aspect of its policy in relation to the RE curriculum or the RS GCSE subject content' - a view that could only be based on ignoring the whole reasoning behind the 'narrow, technical point' on which they had lost in court in a judgement based on a reading of their words that they implausibly claimed 'was not . . . ever intended'²³. They then defiantly set out Government policy in seven bullet points one of which said 'There is no obligation on any school to cover the teaching of non-religious world views (or any other particular aspect of the RE curriculum) in key stage 4 specifically' - a point in direct contradiction to what the judge had said [78, quoted above] when they made this argument in court.

At first in the BHA we thought that we could take the Department back to court, but our lawyers advised that the new guidance was misleading but bombproof: almost all the legally dubious claims in it were when examined closely cast as statements of government policy, not as legal guidance - a deceptive trick, they said, that was increasingly common in contentious guidance documents.

So the Department's line continues to be (in the Secretary of State's own words in the press release) that 'The recent judicial review will have no impact on what is currently being taught in religious education. I am clear that both faith and non-faith schools are completely entitled to prioritise the teaching of religion and faith over non-religious world views if they wish.'

Yet the entire judgement was based on the law requiring that religious education in non-faith schools must be 'objective, critical and pluralistic' and must therefore cover non-religious beliefs. The Department's line is not only obtuse: it risks leading ASCs, Standing Advisory Councils on RE, local authorities, schools and teachers into breaches of the law. The judgement in fact requires a complete rethinking of RE so as to meet the legal need for impartiality and pluralism, embracing non-religious beliefs such as humanism and reflecting the fact that half the population - and a far greater proportion among young people - is non-religious.

The BHA has therefore recently sent to all local authorities, non-faith schools, academy chains, SACREs and many others a paper²⁴ providing detailed and clear legal advice on the implications of the case for religious education that has been prepared for us by Dr Satvinder Juss, Professor of Law at King's College London. And we are actively seeking another opportunity to get back into court - not necessarily against the Department for Education itself: schools and local authorities may also make themselves liable.

So this is an unfinished story. The judicial review has made clear that the BHA's view of the law on religious education in non-faith schools is correct - but it has shown that there are limits to the rule of law when the Government is set on frustrating it. We have to ask what lies behind this obstinacy. How much is it due to the personal views of the Secretary of State? Nicky Morgan has said she is in politics

²² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/488477/RS_guidance.pdf (accessed 8 April 2016)

²³ Some have pointed to the requirement in the February 2015 specification of subject content that GCSE courses 'must require students to demonstrate knowledge and understanding of the fact that... religious traditions in Great Britain are diverse and include the following religions: Christianity, Buddhism, Hinduism, Islam, Judaism and Sikhism, as well as other religions and non-religious beliefs, such as atheism and humanism' - but there is a huge gulf between merely knowing that atheism and humanism are to be found in Britain and studying them in the way required for religions.

²⁴ Available at <https://humanism.org.uk/RS-legal-guidance> (accessed 3 May 2016)

'to remember the Word of God and serve the Lord'²⁵ and was quoted on the Conservative Home website as saying 'As a Christian Secretary of State for Education, I will oppose secular, politically correct dogma'²⁶. She has reacted to the BHA's research demonstrating that faith schools are almost universally in breach of the School Admissions Code²⁷ not by trying to bring them into line but by proposing to shoot the messenger, barring groups such as the BHA from making complaints to the Schools Adjudicator.

But she may not be entirely to blame. As I said in opening the Department's lawyers have a long record of obtuseness when it comes to the law on religious education. And they sit just across Great Smith Street from Church House and its legal and policy staff who are adept and determined in defending the Church's privileges in education and elsewhere. Maybe they occasionally take lunch together . . .

3 May 2016

²⁵ <http://www.theguardian.com/commentisfree/2013/jun/27/christianity-atheism-two-sides-same-coin> (accessed 8 April 2016)

²⁶ <http://www.conservativehome.com/highlights/2014/12/andrew-gimson-interviews-nicky-morgan-as-a-christian-secretary-of-state-for-education-i-will-oppose-secular-politically-correct-dogma.html> (accessed 8 April 2016)

²⁷ <http://fairadmissions.org.uk/wp-content/uploads/2015/09/An-Unholy-Mess.pdf> (accessed 8 April 2016)