

Consultation on the Curriculum and Assessment (Wales) Bill

Evidence submitted to the [Children, Young People and Education Committee](#) for Stage 1 scrutiny of the Curriculum and Assessment (Wales) Bill.

About you

Dr Louise Brown

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1. The Bill's general principles

1.1 Do you support the principles of the [Curriculum and Assessment \(Wales\) Bill](#)?

No

1.2 Please outline your reasons for your answer to question 1.1

(we would be grateful if you could keep your answer to around 1500 words)

The principles the Bill is trying to achieve have been undermined by the way in which the Bill itself has been drafted.

Legislation should be light touch to conform to the recommendations of Professor Donaldson's Successful Futures who is the architect of the principles for this new curriculum for Wales (please see my answer to question 1.3.)

Only listing basic areas of learning and cross-curricular studies is all that is needed in the Bill and the rest should be left to professional learning and development and non-statutory guidance.

The principles are also undermined in relation to the subject areas of religious education and relationship and sex education. Both of these subjects have an impact on parents and pupils of faith and faith schools.

Professor Donaldson's you tube on religious education promised that those who supported traditional RE had nothing to fear from the new curriculum. The principle behind placing RE within the National curriculum as opposed to the basic curriculum was

to ensure that it was properly taught and to improve its position as a taught subject area but this Bill undermines that by diluting and secularising RE.

RVE KEEP AS RE

The Bill undermines RE by changing its name and identity from religious education to religion, value and ethics. It also thereby undermines the principles found in Successful Futures as the 4 main purposes including "To enable pupils and children to develop as ethical, informed citizens of Wales and the world" is meant to cover the whole of the curriculum not just RVE.

Values and Ethics is not something to be confined to RE/ RVE and should be part and parcel of the main purpose across the areas of learning and the curriculum. For that and many other reasons it should be kept as Religious Education (RE).

There is also no need to use the term "mandatory" in any part of the Bill for the reasons outlined in answer to question 1.3. Ethical informed citizens is one of the 4 purposes and not specific to RE which would silo the subject and dilute both it and the teaching of RE.

One reason put forward by the Education Minister for calling it RVE, is so that it encompasses non-religious as well. But that element of non-religious is better dealt with not on the face of the bill but in non-statutory guidance so that the local curricula developed for the school can be developed on a local basis to take account of the needs of the pupils and have regard to the pupils or children's religious and cultural background.

The sections on the Bill on adding a range of philosophical non-religious beliefs are simply unnecessary and unworkable. As a faith representative I am concerned that the quality of RE is not improved by teaching about anything apart from religion such as values, ethics and a whole range of non-religious philosophical beliefs, it defeats the purpose and principle of making RE as part of the national curriculum so it will be taught and not to change the subject to dilute it to the point of being unrecognisable.

The legal sections on adding a range of non-religious philosophical beliefs simply does not work. The legal definitions of this wording will prove to be extremely problematic, what "range of" means what "non-religious" means, what does "philosophical convictions" mean. What philosophical convictions are non-religious as opposed to religious philosophical convictions? It is a legal minefield and any guidance which seeks to clarify will make it even more so. ECHR has not defined "non-religious" and there are 23 philosophical convictions in EHRC case law. Employment Tribunals are continually grappling with what philosophical convictions actually includes. RE will be swamped by

everything and anything apart from the teaching about religion in religious education. What exactly does "range of" mean which also suggests an extensive number?

Teaching a range just leads to superficial content and adding on to section 375 of the Education Act which itself limits the RE teaching to Christianity and only principal religions and will produce an unbalanced curriculum for RE/RVE.

In addition, the list of belief/philosophical convictions keeps on increasing in Employment Tribunal cases to even include Stoicism and Ethical Veganism.

<https://www.bbc.co.uk/news/uk-50981359>

<https://www.gov.uk/employment-tribunal-decisions/mr-samuel-jackson-v-lidl-great-britain-ltd-lidl-uk-gmbh-2302259-2019>

Belief in different cases is becoming an increasingly complex, confused and contradictory in case law decision making.

<https://www.lawandreligionuk.com/2020/09/25/stoicism-protected-as-a-belief-under-the-equality-act-jackson-v-lidl/>

<https://www.cambridge.org/core/journals/ecclesiastical-law-journal/article/critique-of-the-decision-in-conisbee-that-vegetarianism-is-not-a-belief/6150A2BE4B0FAB53AB8FA1E44099B18A>

It will create an unbalanced curriculum for RE weighted against the teaching of religion and in my opinion is part and parcel of the impression of the secularisation of RE found throughout this Bill. It could result in hardly any religion being taught at all.

It is far better to leave the law as it is and rely on teachers to teach an element of this world views subject as they do in the Scottish RE curriculum without any changes on the face of the Bill. If this Bill is enacted as currently drafted, then it will stand out as a curriculum with the least Religious/ Christian content in the whole of the UK. England will include RE as is currently understood as part of its basic curriculum, Scotland has RE benchmarks on it with traditional RE teaching about Christianity and Northern Ireland has Jesus, the Bible and Church as part of its core themes in primary education. This Bill has 16 references to "philosophical" and only 5 to "Christian" clearly representing its unbalanced nature and the secular direction of travel.

The quality of teaching in RE is not improved by teaching about anything but RE such as values and ethics, philosophy, non-religious beliefs etc.etc.

The Bill ignores the consultation results as there was a consensus to keep RE in the Ensuring Access to the curriculum consultation responses:

- Faith and BAME study were in favour of keeping the subject title of RE for primary and Religious Studies for secondary (major church schools and Muslim Council for Wales- so major stakeholders whose views should be respected);
- CYP study found the term ethics confusing but understood RE;
- CYP top preference was Life Religions, so not much different to RE and RVE ranked lower;
- Main study of 1584 respondents, if analysed in terms of numbers, showed that 606 respondents were in favour of no name change and only 377 wanted RVE;
- A subject name change from RE to RVE may cause legal difficulties with the trust deed of faith schools, as well as the unnecessary, difficult to understand, complex, impractical & convoluted clauses within the Bill on RVE for faith schools. (As published on the 6 July). The Explanatory

Memorandum in paragraph 3.50 page 20 shows how there is a lack of knowledge of the content of trust deeds but still legislates regardless of any such consequences.

RSE CHANGE TO HRE

The RSE element of the bill is as a result of an Expert panel report and the Explanatory Memorandum lists the participants of the panel which did not include any faith representatives. The panel also did not have the resources to consult further on its recommendations which included making radical changes on the subject a whole school approach and changing the name from Relationship and Sex Education to Relationship and Sexuality Education.

<https://gov.wales/written-statement-establishment-relationships-and-sexuality-education-rse-working-group>

The later RSE consultation had 275 responses including (37 from a campaign organised by humanists). The results of the question on changing the name from SRE to RSE was hardly conclusive with 43 yes, 42 no, 17 not sure, total 102 even if there were 65 supporting comments, bearing in mind that a number of consultations from the Welsh Government only ask for supporting comments. It means that of the total 102, 43 said yes and 59 no or not sure. So, the majority, approximately 59% no or not sure.

Again there was little overwhelming support for a whole school approach to RSE with 41 yes, 33 No and 23 not sure, meaning the majority said no or not sure.

<https://gov.wales/sites/default/files/consultations/2019-07/summary-of-responses-draft-guidance-on-relationships-and-sexuality-education.pdf>

The Minister has subsequently issued a statement on an RSE working group

<https://gov.wales/written-statement-establishment-relationships-and-sexuality-education-rse-working-group>

However, the Bill and the Explanatory Memorandum are still along the lines of the original report so any consultation with stakeholders should be at the formative stage not afterwards to follow the Gunning principles of good decision making.

The CYP group who were consulted on Ensuring access to the full curriculum on the subject of RSE stressed the importance of the school working together with parents. The CYP group were also against the idea of RSE being called Relationship and Sexuality Education as they thought it was about healthy relationships and would cause embarrassment if called either sex or sexuality.

It should not be a whole school approach as the danger is of it being overdone, bearing in mind the embarrassment point made by the CYP group.

In view of the children and young people's views it would better to call the subject Healthy Relationship Education – HRE. Also the subject areas it covers as stated in paragraph 3.69 of the Explanatory Memorandum(1 September) includes Sexual Health and Wellbeing and Violence, Safety and Support and so would lend itself better to this HRE title.

<https://senedd.wales/laid%20documents/pri-ld13294-em-r/pri-ld13294-em-r-e.pdf>

Sex/Sexuality Education needs to be not only age (developmentally) appropriate but sensitive to the religious and cultural background of the pupil or child concerned as it currently is in legislation, particularly with no opt out. It is important that the Code is simply for non-statutory guidance and is not based on a heavy handed mandatory statutory code as outlined in section 8 of the Bill.

1.3 Do you think there is a need for legislation to deliver what this Bill is trying to achieve?

(we would be grateful if you could keep your answer to around 500 words)

No, it would be far better to allow the new curriculum to develop and improve on the basis of well consulted upon non-statutory guidance to allow for the less prescriptive local curricula.

LIGHT TOUCH LEGISLATION

On the positive side, the principles of the Bill are based on the pioneering work by Professor Donaldson in Successful Futures which provided the foundation for developing a new curriculum for Wales. That document should form the basis of the principles of the Bill, which intended there would only be a light touch legislation and for the curriculum to be allowed to have scope to develop by guidance and presumably a light touch would also entail non-statutory as opposed to statutory guidance to allow the curriculum to develop and have a regular review as well

Recommendations from Successful Futures:

Legislation

63. The principle of a national curriculum for Wales should be reaffirmed and legislation should define a broad set of duties rather than detailed prescription of content.

64. Where necessary, specific requirements in relation to curriculum and assessment should be described in regulation and guidance, and subject to regular review.

Page 100 of Successful Futures states as follows:

To be clear, the Review is not recommending that the content of the Areas of Learning and Experience or the related Progression Steps be specified in primary legislation but that they should be set out in guidance. Such an arrangement will allow greater flexibility in adapting the curriculum over time and in light of evidence about its implementation.

It is the Review's intention that, by adopting a lighter touch in respect to legislation, schools and teachers would be encouraged to take significant responsibility for developing a curriculum which is consistent with national expectations, but which is also able to reflect the needs of the children and young people in their school.

HEAVY HANDED LEGISLATION

However, the Bill is drafted in a heavy handed way and is more akin to a penal code than Educational law and more stringently worded than even criminal law. The evidence for this argument is found in relation to the key Education Act 1996 which has no references to the word "mandatory", the Education Act 2002 has 5 references but in relation to matters such as prohibition from teaching in relation to misconduct but not in relation to the curriculum. The Criminal Justice Act 2003 has 19 references to the word "mandatory" but virtually all in relation to mandatory life sentences. The Policing and Crime Act 2017 and the Crime and Courts Act 2017 has no references.

- The Bill by contrast has an astounding 55 references to the word "mandatory".
- This stringent type of law is inappropriate particularly for a bill which should aim to have a national framework and be less prescriptive on the basis of a local curricula.
- All references in the Bill to mandatory should be removed and any reference to statutory guidance replaced with non- statutory guidance to provide the light touch legislation required. If something is required to be listed as part of a national curriculum it is normal legal drafting practice just to simply list the subject or area of learning in that way, as can be found in the amendments for Wales in Part 7 of the Education Act 2002 with the current curriculum requirements. Legal bills are normally drafted in an impartial and neutral manner avoiding compulsory language unless absolutely necessary.

2. The Bill's implementation

2.1 Do you have any comments about any potential barriers to implementing the Bill? If no, go to question 3.1

(we would be grateful if you could keep your answer to around 500 words)

Yes there are enormous barriers to the implementation of this Bill because it has not been properly consulted upon before being published and the provisions within it are both unnecessary and unworkable as a result.

In relation to faith schools, it is based on offensive stereotypes without any evidence base. It is surprising that such legislation should be drafted when it is admitted that there is no knowledge of the content of trust deeds for faith schools and as a result may well cause complex unknown legal difficulties. (See paragraph 3.50 of the Explanatory Memorandum).

Legal basis of argument to change to RVE and encompass non-religious is questionable.

It is of concern that the Education Welsh Minister letter of the 12 of August 2020 is quoting the Humanist English Fox case in the footnotes on the need for RVE to be pluralistic.

<https://business.senedd.wales/documents/s103995/Letter%20from%20the%20Minister%20for%20Education%20regarding%20the%20Bills%20provisions%20as%20they%20relate%20to%20Religion%20Va.pdf>

Following that Fox case, Dr Juss associated with the British Humanists Association wrote to all SACREs in England to indicate that equal air time should be given to the teaching of religious and non-religious views. The Department of Education subsequently had to issue further guidance to correct that advice as the Fox case had a narrow interpretation only. The DOE in England stated that:

"Schools, local authorities and ASCs are not under any obligation to have regard to guidance issued by other specific bodies, groups or individuals and should instead follow the Department's Guidance when making decisions about their RE curriculum. In particular, schools, local authorities and ASCs should not follow what purports to be 'guidance' issued recently by those associated with the British Humanist Association (including views on the law of Dr Satvinder Juss dated 28 April 2016) – that guidance and those views have no official status and are contentious.

There is no obligation for any school or ASC to give equal air time to the teaching of religious and non-religious views. "

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/536757/160704_Annex_A_further_RE_guidance.pdf

There was also no necessity for legislation to change in England as a result of the English Fox case.

However, it is assumed that the Welsh Government DOE legal advice appears to have fully accepted this Humanist interpretation that the DOE in England warned about and instead is legislating to give more time to a range of non-religious philosophical convictions than even religious views. Even the AoLE Humanities also repeats this error of interpretation by every time religious views is mentioned inserting "and non-religious" views.

The Bill also proposes these changes but the subject title needs to be kept as RE and the addition to encompass a range of non-religious philosophical convictions in section 375 of the Education Act 1996, should be removed from the Bill as well as its addition to the membership of SACREs.

The legal argument on any need to change the membership of SACREs in this Bill is unproven and this issue of Human Rights and the Equality Act 2010 was considered previously by a Borough Solicitor in terms of a request for a co-option by a Humanist in the following link:

<https://democratic.bracknell-forest.gov.uk/documents/s45608/BFC%20Solicitor%20advice%20re%20humanist.pdf>

In addition Schedule 3 Part 2 Paragraph 11 of the Equality Act 2010 provides an exemption from discrimination on either religion or belief for the content of the curriculum and collective worship:

<https://www.legislation.gov.uk/ukpga/2010/15/schedules>

There is no necessity for RE to encompass non-religious beliefs, if necessary that element could be included in a values and ethics course and within non-statutory guidance.

The Bill assumes that it is the State's duty to educate and disconcertingly on a compulsory basis for RE/RVE and RSE with no Parental opt out. It has always been the parent's duty to educate as set out in section 7 of the Education Act 1996 and this is the reason parents are allowed to home educate.

2.2 Do you think the Bill takes account of these potential barriers?

(we would be grateful if you could keep your answer to around 500 words)

No the Bill should not be proceeded with particularly at a time when meetings with Stakeholders are difficult and in late September 2020 nearly two-thirds of Wales is in lockdown due to Covid 19.

As a member of SACRE, I am astounded at finding that the published Bill changes the role, membership and name of SACRE without any prior consultation with individual SACREs on it.

In addition there has been no consultation on the What Matters code or the RE Framework.

It is part of the central identity of SACREs that it is about religious education and so to change the name to SAC and also to change its role is highly disconcerting. The change of name from RE to RVE and changing the nature of it to secularise it to follow a national dictum makes it an entirely different body.

The role of SACREs is to promote religious education. It would be preferable for non-religious beliefs to be an element of values and ethics and take it out of RE.

The issue of the Bill changing the membership of SACRE is also a major concern, particularly when this is based on a misinterpretation of case law.

In English SACREs there are 4 voting groups composed of Church of England, Faith representatives (including other Christian church representatives and other faiths), Teachers and Councillors. In Wales there are only 3 voting groups, faith including church in wales, teachers and councillors. Adding a whole voting group on the non-religious philosophical convictions would mean that for a religious subject the voting of the faith side for SACREs instead of being 50% as in England, will be just 25%. However, this is part and parcel of the major concern about this Bill which seeks to diminish the faith voice and religion within RE.

The letter in May 2018 about Humanists to SACREs from the Minister was not about a whole group but about the possibility of Local Authorities considering membership of the faith group for a humanist and was left up to the local authority. This whole group change even if left up to the local authority, could mean that a single humanist has the same vote as a whole faith group, teachers group and local authority group.

The Humanists have been campaigning to make non-religious belief on a par to religious education. However, in terms of their representation in Wales, I have been told from a reliable source that there may be only few Humanist members in Wales (equivalent to about 27 per local authority area) and their representation per local authority area would not be significant enough to merit a representative SACRE place on the faith group even if a faith rather than a belief, as in local authority areas there may be more people of other faiths than Humanists.

When the information was available on the Humanist website there were less than a handful of local groups of Humanists (3 or 4) in the whole of Wales. A web search now reveals just a Cardiff group of Humanists.

It is of interest to note that the Humanist were not even able to find a focus group of children and young people on the basis that they do not identify as Humanist. (Page 13 of the CYP study group consultation for ensuring access to the full curriculum).

3. Unintended consequences

3.1 Do you think there are there any unintended consequences arising from the Bill? If no, go to question 4.1

(we would be grateful if you could keep your answer to around 500 words)

The unintended consequences is that the Bill has the potential to damage both the religious ethos of faith schools and the positive relationships between the Welsh Government and representatives of Faith in Education including Schools, Teachers, Parents, Governors and SACRE members.

The Welsh Government policy on Faith in Education is a positive one as shown in the 2011 document called Faith in Education found in the following link:

<http://www.wasacre.org.uk/publications/wag/E-Faith%20in%20education.pdf>

The Government Minister stated in that document:

The Welsh Government believes strongly in celebrating the different and diverse cultures within Wales. Schools with a religious character are one aspect of the diversity within our communities, and the Welsh Government acknowledges the significant part faith has played in the development of the education system in Wales. Today, schools with a religious character continue to fulfil a valuable role in Welsh society.

Many aspects of the Bill have not been consulted upon before it was published, including the What Matters Code, the RE Framework, the role, membership and name of SACREs or the dual curriculum design requirement for faith schools.

As a result 84 Heads of Catholic Schools have written to express their concern to the First Minister asking for changes to RE in the Bill to be scrapped.

<https://www.indcatholicnews.com/news/39873>

<https://www.walesonline.co.uk/news/education/catholic-schools-religious-education-wales-18470657>

It is hoped that this Bill will be amended to support the importance of RE in both maintained and faith schools and not undermine and damage it.

In addition the main emphasis in section 10 upon Head teachers of designing the curriculum and then adopting the curriculum in consultation with the governing body will cut out the local authority. It is no use saying that councillors are also governors that is not the case as some are and some are not. There is also a big difference between the role of an elected member and the professional role of Local Authority Education officers.

How will Education committees in the 22 local authorities in Wales be involved? Being on such committees you soon learn how a good Head teacher can provide the Leadership to turn a school around and improve it. However that is for a school which was failing and may have had previous Leadership that was not working. To rely almost entirely on the Head teacher to design and adopt a curriculum takes no account of the varying differences between Head teachers. Where is the scrutiny and accountability for which the local authority needs to be involved both at member and professional officer level and provided with the resources to assist schools?

The generalist requirement for local authorities to facilitate Parts 1 to 4 of the Bill is not specific enough.

4. Financial implications

4.1 Do you have any comments on the financial implications of the Bill (as set out in Part 2 of the [Explanatory Memorandum](#))? If no, go to question 5.1

(we would be grateful if you could keep your answer to around 500 words)

Yes, the wide range of cost involved is an example of the rushed nature of this Bill which has not allowed for proper consultation, particularly with faith schools and SACRE where the costs are unknown. (See paragraphs 8.136, 8.219, 8.220, and 8.221 of the Explanatory Memorandum 1 September 2020).

The resource implications are enormous due to not consulting properly with faith schools who are given the unreasonable and costly expectation of having to design 2 versions of

RE and RVE just in case on implementation, a parent wishes to request the agreed syllabus RVE or denominational one. The default situation is the same as now, so voluntary controlled schools follow the agreed syllabus and for voluntary aided to follow the trust deed or the denomination. A parent already has a qualified right but instead the Bill wishes to make this an absolute right for the State RE/RVE. The voluntary aided faith schools even have to follow the State RVE dictum even more rigorously than maintained state schools as it has to be in accordance with the RVE agreed syllabus rather than have regard to it.

The Explanatory Memorandum to the Bill is aware of this entirely unsatisfactory situation due to its lack of cost information. Yet there is no requirement for State schools to have to provide a denominational education for parents who request it for a child. They only have to design and implement one RVE agreed syllabus curriculum.

Costs would be saved by deleting Schedule 1 and 2 of the Bill which are not what section 69 describes as just minor and consequential amendments but are major changes to RE/RSE and SACREs. The current situation needs to be restored and changes to RE as detailed in this response, scrapped in the Bill.

5. Powers to make subordinate legislation

5.1 Do you have any comments on the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the [Explanatory Memorandum](#)). If no, go to question 6.1.

(we would be grateful if you could keep your answer to around 500 words)

The balance within the Bill demonstrates that there are far too many decisions in subordinate legislation which are negative or with no procedure as opposed to affirmative powers which will allow for proper scrutiny of this subordinate legislation which can amend primary legislation by Assembly members.

It is vital that the Codes in Table 5.2. Adopt the affirmative procedure. The What Matters Code are the most important key statements for each subject area within the areas of learning.

-Section 6(1) of Table 5.2 should be affirmative for this reason.

-Section 7 (1) of Table 5.2. also deals with the progression codes which again are an important element of pupil progress and should be affirmative.

-Section 8(1) on the RSE – Relationship Sexuality Education Codes should be affirmative and the table notes how controversial they can be and it is for that reason they should be subject to full scrutiny by the affirmative procedure to ensure that any negative impacts are fully mitigated.

It is very important that the What Matters statements particularly those for RVE hopefully changed to RE, what matters and RSE all follow an affirmative procedure.

Section 72 of the Bill deals with the What Matters code (which will include RVE), the progression code and the RSE code, such important issues should not follow a negative procedure whereby after simply laying for 40 days they are adopted and all need to follow the affirmative procedure route.

Table 5.2 in relation to section 66(2) on Guidance, indicates that there is no procedure for this, it should be changed to be an affirmative procedure.

It is not clear where the RE Framework fits into this and presumably this will be guidance and hopefully non-statutory guidance. The heavy handed nature of this Bill appears to be about making statutory rather than non-statutory guidance which should be changed.

SACREs will have to have regard to such guidance issued by the Welsh Minister and so it is important that this is scrutinised. It is clear from section 66(2) that it is up to the Minister if they consult (if any) even though there is a list of those who have to have regard to the guidance in the same section, including a local authority.

In chapter 5 of the EM, in tables 5.1 and 5.2. each line of it should add the introduced description of the section it is referring to in order to more clearly judge its significance.

Line 79(2) has no procedure rather than affirmative procedure when it is about the important issue of when the provisions come into force.

Far too much of the explanation in the tables 5.1. and 5.2, provides no explanation at all and says just a technical matter. Far too much power is being given to the Welsh Minister to make regulations without the proper scrutiny needed.

In chapter 5 table 5.1 line 70(1) the earlier Explanatory Memorandum to that dated the 1 September was changed due to a letter from the Minister changing this procedure on making regulations from an affirmative to a negative procedure. However the explanation

that is left of the reasons explains exactly why it should remain an affirmative procedure
“Due to the nature of the power to amend primary legislation”.

<https://business.senedd.wales/documents/s104748/Letter%20from%20the%20Minister%20for%20Education%20to%20the%20Chair%20of%20the%20Children%20Young%20People%20and%20Education%20Comm.pdf>

There is also a clarification about the Ministers power to change regulations in relation to SACREs so that it is important to that this is properly scrutinised by an affirmative procedure. The EM states:

165. Paragraph 15 amends section 397 of the 1996 Act in order to clarify that the powers to make regulations in relation to advisory council and agreed syllabus conference meetings and documents rests with the Welsh Ministers in relation to Wales.

<https://senedd.wales/laid%20documents/pri-ld13294-em-r/pri-ld13294-em-r-e.pdf>

It would be preferable for the above amendment to not be included in the Bill to ensure the local independence of SACREs.

Also the Bill slips in regulations on collective worship for special schools and again regulations should be fully consulted upon and subject to an affirmative procedure.

6. Other considerations

6.1 Do you have any other points you wish to raise about this Bill?

(we would be grateful if you could keep your answer to around 1000 words)

Yes the best option for this Bill would be to withdraw it and to consult with all parties properly and follow the Gunning Principles of good decision making.

The consultation on the legislation on RVE only recently finished and to continue with a Bill without having the results is contrary to the Gunning principles of good decision making.

<https://law.gov.wales/constitution-government/public-admin/intro-admin-law/welsh-government-guidance-on-making-good-decisions/?lang=en#/constitution-government/public-admin/intro-admin-law/welsh-government-guidance-on-making-good-decisions/?tab=overview&lang=en>

The requirements for Fair consultation are set out in the Welsh Government's making good decisions guide and the important Gunning principles can be found on page 36 and 37 of that guide in the following link and the importance that consultation must take place when the proposal is at a formative stage:

<https://law.gov.wales/docs/lawwales/makinggooddecisionsen.pdf>

Reconsideration of Legal cases: Need to reconsider DOE advice on Fox Case and other aspects such as potential breach of Human Rights due to compulsory nature of RE without exemption

There needs to be a reconsideration of the legal arguments on the changes proposed in the Bill.

The Bill insists on compulsory religious education which may breach human rights, according to Sir Malcolm Evans, Professor of Law at Bristol University and there needs to be the safety value of an exemption as described in the following link for the BBC article:

<https://www.bbc.co.uk/news/uk-wales-51407327>

The exemption for parents for his or her child from RVE and RSE is not allowed in this Bill. This issue has never been consulted upon properly as the question didn't ask about this opt out separately. The Welsh Government needs to also consider this again in the light of the recent European case law.

The recent judgement in the European Court of Justice on changes to a curriculum brought by changes to the curriculum to make it more pluralistic in Greece and opposition to it from all sides, shows how complex this area of law in relation to exemptions actually is.

In the Papageorgiou case, the parents to gain an exemption were required to give a solemn declaration that they were not Orthodox Christians and that was also a problem for those with Orthodox Christian views who wanted exemption from the new curriculum. See the following link:

<https://www.lawandreligionuk.com/2019/10/31/mandatory-religious-instruction-again-papageorgiou/>

Also in the case of Mansur Yalcin v Turkey 16/9/14:

The reported comment of the EHRC case on exemptions is as follows:

"The Court noted in this connection that almost all of the member States offered at least one route by which pupils could opt out of religious education classes, by providing for an exemption system or the option of studying an alternative subject, or by making attendance at religious studies classes entirely optional."

Mansur Yalçın v Turkey (Judgement in French).

[https://hudoc.echr.coe.int/eng#{\"itemid\":\[\"001-146381\"\]}](https://hudoc.echr.coe.int/eng#{\)

<https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-4868983-5948734&filename=Chamber%20judgment%20Mansur%20Yalcin%20and%20Others%20v.%20Turkey%20-%20religious%20education%20in%20schools.pdf>

Hence the requirement for exemptions needs to be reconsidered to ensure compliant with EHRC law.

In the summary report produced on a consultation with faith and BAME the parents right to withdraw a child from RE was seen as a safety net, In addition most Christian groups strongly opposed the right to withdraw from RSE being removed and the word "sexuality" should not be used as relationships covers it.

Parental rights to have a dual curriculum option only applies to faith schools and would be impractical in terms of the resource implications of designing 2 curriculums.

In my opinion, it is far better to allow the option of exemption for RE/RVE as currently applies for both faith and non-faith schools rather than a dual curriculum design requirement for faith schools. The proposals apply in an unfair and unequal way. For example, why should a parent with a child at a faith school be allowed a dual curriculum option but not at a State school. There are more maintained State schools than faith schools in Wales and so the options for parents and children of faith are much more limited. There are not secondary faith schools in every local authority area of Wales Why shouldn't a parent be able to request a denominational curriculum for RE at a State school?

The proposals are totally unworkable and the status quo on faith schools and maintained schools for RE needs to be maintained in terms of the teaching of RE and the parents right to opt his or her child out of RE and RSE.

The Explanatory Memorandum (EM) recognises the negative impact of these proposed changes for the renaming of RE and RSE (in paragraphs 9.58, 9.66 and 9.71) but the Bill

does nothing to mitigate it with what may be considered as a callous disregard towards parents feeling so strongly about the changes that there is a recognised risk of parents withdrawing children from school to home educate and simply suggests monitoring it.

Surely an education system should be flexible enough to accommodate the strongly held religious beliefs and the cultural background of its local population and this is the reason why SACREs are locally based to be sensitive to such backgrounds of religious and cultural beliefs.

On renaming RE, the EM states "the proposal to change the name to reflect a broader scope was not supported by responses that included the Catholic Education Service, the Church in Wales, the Muslim Council of Wales and Cardiff University's Religious Studies faculty." The EM also states "Religion Belief and non-belief: there will be a negative impact for some religious groups and parents especially Catholic and humanists in respect of RE and Muslim and Christian groups in respect of RSE."

It is surprising that the negative impact of the Bill for Christian and Muslim groups for both RE and RSE is not recognised, as there will be less air time for both the teaching of Christianity and other faiths. The Bill does nothing to mitigate these negative impacts. The expectation in paragraphs 9.44 to 9.46 of the EM for the Justice Impact assessment being minimal is surprising since Wales will be out on a limb with the rest of Europe in terms of the compulsory nature of RE/RV.

