



Ane Vernon
Senior Dispute Resolution Associate

GCSE Religious Studies – should schools incorporate non-religious views?

Comment by **Ane Vernon**, Senior Associate at Payne Hicks Beach Solicitors

In February 2015, the Secretary of State for Education (SoS) issued new GCSE Religious Studies subject content for the 2016 academic year. The SoS's assertion that the "subject content is consistent with the requirements for the statutory provision of religious education in current legislation" was at the centre of the Judicial Review claim *R (Fox) v Secretary of State for Education*.

Three children and their parents, supported by the British Humanist Association, claimed that the subject content together with the assertion quoted above, gives unlawful priority to the teaching of religious views compared to non-religious views, such as humanism. The challenge was grounded in human rights law establishing rights of freedom of thought, conscience and religion and right to education.

The Judge found that the SoS's assertion contained a "false or misleading statement of the legal position". The ruling has been widely reported as requiring schools to teach non-religious views, such as humanism, on an equal footing with religious ones.

Decisions of the European Court of Human

Rights in Strasbourg originating from Denmark, Norway, Italy and Turkey provided guidance to the Judge. These cases were concerned with sex education in primary schools, the mandatory attendance by pupils of subjects covering 'Christianity, religion and philosophy' or 'religious culture and ethics' and the practice of fixing a crucifix to the walls of state schools.

So far as domestic law is concerned, the Judge considered section 375 of the Education Act 1996 which requires religious education to be taught according to an 'agreed syllabus' which must "reflect the fact that the religious traditions in Great Britain are in the main Christian whilst taking account of the teaching and practice of the principal religions represented in Great Britain".

Thus, the state may give priority to imparting knowledge of one religion above others where that religion is practised or adhered to by a majority in society, but it must accord equal respect to different religious convictions and to non-religious beliefs. It must not discriminate between religions and beliefs on a qualitative basis.

The judgment makes clear that the state owes parents a positive duty to respect their religious and philosophical convictions. Whilst it has considerable latitude in deciding how that duty should be performed, having regard (amongst other things) to resources, local conditions and the preponderance in its society of particular religious views and their place in the tradition of the country, it also has a duty to take care that information or knowledge included in a curriculum is conveyed in a pluralistic manner.

Again referring to the Strasbourg decisions the Judge pointed out 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.

The Department for Education has confirmed that it will not be revising the religious studies GCSE subject content stating "There is no problem with the RS GCSE subject content". However, schools and authorities will need to ensure that where they decide to focus solely on prescribed GCSE subject content, provision is made for also covering non-religious views.