



GOVERNMENT WHIPS' OFFICE

HOUSE OF LORDS

FROM THE BARONESS CHISHOLM OF OWLPEN

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Dear Mike,

Thank you for your contribution to the second reading of the Education (Assemblies) Private Member's Bill on Friday 10 September. As I committed to during the debate, I wanted to write to you to respond to the questions that you raised.

1. The right of schools to seek a determination

You asked whether the government is satisfied that schools are aware of the right to seek a determination allowing them to hold multifaith assemblies, assemblies of a different faith or no faith assemblies at all under the current legislation.

The 1994 [guidance on collective worship](#) states that collective worship and assemblies are distinct activities. Although they may take place as part of the same gathering, the difference between the two should remain clear.

For maintained schools, the government is content that the guidance is clear both on what a determination is and how a school can apply for exemption. For academies, [additional guidance](#) was published in 2012 which clearly explains how to apply for an exemption via the Education Skills and Funding Agency (ESFA) for some or all of its pupils. In its application, the school is asked to give reasons for the application such as consideration of the family background of pupils, details of consultation with governors and parents, and of proposals for future collective worship.

The Department for Education is satisfied that schools are aware of the right to seek a determination, as the 1994 and 2012 guidance is long-standing.

2. The number of schools that have applied for a determination

You asked whether the department knows how many schools have applied for determinations.

The Department does not have statistics on state-funded schools without religious designation. As set out in the 1994 guidance, maintained schools without religious designation are directed to apply for a determination through the Standing Advisory Council on RE (SACRE), a body which must be established by each local authority. Some SACREs do, however, include the number of schools that are providing collective worship under a determination. For example, in Leicester, the SACRE's latest annual report states that three schools in the local authority area have had their determination renewed for another five years. Academies without a religious designation apply for a determination via the ESFA, as set out above.

3. Right of appeal to unsuccessful determination:

You asked if schools who have an unsuccessful determination application have the right to appeal the decision and, if so, where is that appeal heard.

There is no statutory duty to have an appeals process if schools apply for a determination but are unsuccessful. SACREs and the ESFA can accept or reject determination requests but cannot modify an application. Where an application is unsuccessful, SACREs should write to the headteacher informing them of the reasons why it was unsuccessful. In the case of academies, the ESFA would write to the school providing an explanation. Reasons for rejection may include inadequate information on the family background of pupils or consultation with the governing body.

In any such case, schools should be able to consider the feedback, take steps to improve the information provided and reapply, if they wish.

4. Awareness of the right of withdrawal

You asked what steps schools are taking to ensure that parents are aware that they may also withdraw their children from collective worship and that sixth-form students may withdraw themselves.

The 1994 guidance states that the parental right to withdraw a child from attending collective worship should be 'freely exercisable' and that schools 'must give effect to any such request' regardless of the parents' reasons. In addition, Section 55 of the Education and Inspection Act (2006), gives the right to sixth-form pupils in maintained schools to withdraw themselves from collective worship; this right is included in the funding agreements of academies.

The Department trusts schools to inform parents and sixth-form pupils of this right, and comply with any requests in line with their legal duty.

5. Investigation of breaches of legal duty in relation to collective worship

You asked who is now responsible for investigating and determining breaches of the legal requirement on collective worship.

If pupils or parents are unhappy with the provision of collective worship, they should, in the first instance, follow their school's complaints procedure and seek resolution locally. If the complaint needs to be escalated, it should be taken to the local authority in the case of maintained schools, or to the ESFA as an alleged breach of a funding agreement if it is an academy.

The Department will investigate non-compliance only if a complaint is made directly and all other means of resolution have been exhausted.

I hope this response is helpful. I will send a copy of this letter to all Peers who spoke and place a copy in the House library.

Best wishes,

A handwritten signature in black ink, appearing to read 'Carolyn', is centered on the page.

BARONESS CHISHOLM OF OWLPEN

The Lord Watson of Invergowrie
House of Lords