

Karen Adam MSP
Convener
Equalities, Human Rights and Civil Justice Committee
The Scottish Parliament
Edinburgh

By email

31 October 2025

Dear Convener,

**Children (Withdrawal from Religious Education and Amendment of UNCRC
Compatibility Duty) (Scotland) Bill**

On behalf of Humanist Society Scotland, I am writing to follow up on a number of points arising from the evidence session held this week. Despite the very best efforts of your Committee, the answers provided by the Cabinet Secretary and her officials did not adequately address a number of concerns raised by witnesses during your evidence gathering.

Firstly, the decision in the Bill to allow pupils to independently **opt in** to religious observance (RO), but provide no equivalent right to opt out, was a key criticism raised during oral evidence sessions. Witnesses broadly agreed that if a parent's views can be overridden in the event that a child wishes to participate in religious observance, then a child who wishes to withdraw should also have the final say. It was therefore disappointing that the Cabinet Secretary seemed unable to engage meaningfully with this concern or provide any new detail on the government's rationale.

Indeed, I am profoundly concerned by the Cabinet Secretary's repeated assertion that adopting the recommendation of the UNCRC committee would only amount to 'appeasing stakeholders'. Compliance with human rights is not a matter of placating interest groups, but ensuring that everyone in society can access their fundamental freedoms. The Minister's framing minimises children's Article 12 and 14 rights to a question of political power.

The UN Committee on the Rights of the Child has twice (in 2016 and 2023) recommended that children should have the legal right to withdraw from collective worship; your own committee papers summarise this clearly. The Scottish Human Rights Commission likewise advised the Committee that Part 1, as drafted, does **not** achieve UNCRC compliance and should be amended to provide an independent opt-out from religious observance. Children are not 'stakeholders' to be appeased; they are rights-holders whose freedoms Ministers are duty-bound

to protect. Introducing a one-way “opt-in only” power entrenches an arbitrary hierarchy between religious and non-religious belief, something that witnesses warned your Committee about on 30 September.

Secondly, the Cabinet Secretary is yet to fully address why she believes the Bill is compliant with the UNCRC. Pressed by members, Ms Gilruth and her officials asserted compatibility in general terms but did not substantively address why denying an independent opt-out represents alignment with Articles 12 and 14. By contrast, legal and children’s rights bodies (SHRC, CYPSC, Together, UNICEF UK) told you that Part 1 falls short of the UN Committee’s concluding observations and of the “evolving capacities” principle. I believe the Committee should put particular weight on the fact that two independent, parliamentary appointed commissioners - the SHRC and CYPSC - have disagreed with the Government assessment on UNCRC compliance. While both commission offices have provided significant evidence as to why they hold such positions, the government has offered no evidence at all beyond simply stating they believe to be acting compatibly.

Thirdly, I note the Cabinet Secretary’s assertion that the Committee heard a ‘wide range of views’ on Part 1 of the Bill during oral evidence sessions. In her opinion, the lack of consensus from stakeholders necessitates a ‘middle ground’ approach. We do not share this analysis.

On the specific matter of a pupil’s right to withdraw from religious observance, witnesses were broadly united and supportive. Of the 19 organisations and individuals invited to appear at your Committee, 13 supported the view that the Bill should give pupils a reciprocal, independent right to opt out of religious observance. By contrast, only 4 organisations were explicitly opposed, three of which are religious organisations currently involved in the provision of religious observance to young people and are of course seeking to maintain the status quo.

The Cabinet Secretary also referenced the “wide range of views expressed” in the government consultation. However, it is worth highlighting that the consultation paper did not explain the practical effect of “giving due weight to pupils’ views” in the context of withdrawal from RO and RME. This lack of clarity resulted in a widespread misunderstanding of the government’s position from both individual and organisational respondents. Indeed, the independent analysis of responses noted that “the limited detail may have contributed to varied interpretations of the level and nature of the proposed changes to Section 9 of the 1980 Act and/or the consultation respondents may have found it difficult to make an informed response”.

Fourthly, although the Cabinet Secretary acknowledged that RO and RME are distinct, the Bill continues to treat them together, perpetuating the confusion that has caused longstanding

inconsistency in schools. Members explored this directly, the Government's answer was that separating them would be too large a change for a "technical" bill. This surely cannot be a position for the Committee to accept given the government has been aware of this issue for many decades. Witnesses, including Together, CYPSC and the Scottish Association of RME Teachers (in written evidence), urged the Committee to clarify the distinction in law. Claire Benton-Evans of the Scottish Episcopal Church summed it up perfectly when she said "RO is a matter of belief and RME is a matter of education". The continuing conflation undermines clarity and rights in practice.

Finally, I wish to restate our concern that school pupils have been locked out of this important discussion from the outset. Children and young people are the group most directly impacted by this legislation and should have been at the heart of the policy process. While I welcome the government's belated intention to consult school pupils on Stage 2 amendments and the development of updated guidance on RO, we have received no detail on this engagement to date.

In light of the above, we respectfully invite the Committee to recommend in their report that the Bill **creates a reciprocal, independent pupil right to withdraw from RO** as a matter of priority. As we highlighted in our letter to your Committee of 9 October, this amendment would help address the historic conflation of RO and RME by creating distinct withdrawal rights for each topic and put beyond doubt Scotland's compliance with the UNCRC.

We remain committed to constructive engagement with the government and with parliamentarians as they consider this important issue. However, as your own evidence base shows, an "opt-in only" model **does not** meet Scotland's human rights obligations and leaves the underlying problem untouched: children will continue to be compelled to worship against their own beliefs.

Yours sincerely,

Fraser Sutherland
CEO Humanist Society Scotland