**Curriculum and Assessment (Wales) Bill**

Technical problems updated after meeting on 13 Jan 2021

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|  | **Clause of Bill** | **Problem** | **Progress** |
| 1 | Sch.1, para.4 | VA schools (only) to provide provision that accords with agreed syllabus. | WG amendments laid to change requirement to *‘have regard to’* as for all other schools. |
| 2 | Sch.1, para.2 | Non-denominational schools: agreed syllabus only – parental right to request denominational RE is abolished. Unequal treatment of parents unable to access a denominational school. | WG not minded to change drafting. |
| 3 | Cl.66 | Welsh Ministers to be given the power to issue statutory guidance which does not exclude statutory guidance on denominational RE (e.g. content of Catholic RE) | Assurances from officials that this is power not needed nor is it intended to be used. But what about future administrations? (This is also a matter of principle.) Not minded to change drafting, but will give assurances. |
| 4 | Sch.2, para.10(2) | New para. (1A)(a)(ii) widens SACREs remit to include, for the first time, denominational education. (See ‘mandatory element’ in cl.24(2) and Sch. 1 pt.1) Particularly important in the light of proposed new composition of SACREs. | Assurances that this was not the policy intent. However, if SACRE remit is expanded beyond the agreed syllabus, surely the providers of denominational schools deserve to be represented discretely in that capacity? WG lawyers do not believe that the wording gives power to SACREs to advise LAs. Not minded to change drafting, but will give assurances and make this point clear in the guidance. |
| 5 | Sch.2, para.9(6) | Changes SACRE membership by adding a new group which will be drawn largely from campaigning groups who are committed to the abolition of denominational RE and denominational schools. | What is the justification for a separate group? WG considering response: will come back before deadline for amendments. |
| 6 | Sch.2, para.26(4) | Changes ASC membership by adding a new committee which will be drawn largely from campaigning groups who are committed to the abolition of denominational RE and denominational schools and will therefore have a veto over every agreed syllabus. | Have suggested making it clear that philosophical convictions are to be represented on the existing committee (as is the current practice). WG considering response: will come back before deadline for amendments. |
| 7 | Sch.2, para.7 etc.; Cl.62 | Sch.2 para.7(4) (agreed syllabus) and cl.62(4) (post-16) define ‘philosophical convictions’ in terms of ECHR A2P1 and its jurisprudence. However, requirements for the agreed syllabus in the Bill cut this down with the addition of ‘non-religious’ – potentially excluding some of the ECHR jurisprudence. | WG lawyers considering response. Will come back to us with some clarification on the meaning of ‘non-religious’. |
| 8 | Cl.62 | The wording of cl.62 excludes the possibility of teaching denominational RE post-16.  *See separate paper.* | Officials have given assurances that this is not the policy intent – denominational schools should be able to continue teaching denominational RE unless pupils request under cl.62(1): WG lawyers still firmly believe this does not exclude denominational RVE. Not minded to change drafting but will give assurances. |
| 9 | Sch.2, para.18 | Removes the important protections contained in s.403(1) & (1A) about the manner of provision of SRE without any equivalent replacement. | Not minded to change drafting and add back the existing protections. |
| 10 | Cl.5 | Concern about the power to amend the AoLEs and their mandatory elements in cl.3 (including RVE etc.) (Affirmative procedure) | Officials understand our points but it is not intended to use these powers against RVE; WG lawyers make public law arguments that it would not be legally possible; not minded to move on this. |
| 11 | Cl.25 | Concern that power over post-14 curriculum by regulation (particularly 25(3)) may affect RVE. (Negative procedure) | Assurances from officials that this is not the policy intent; WG lawyers argue that public law considerations limit this possibility. |
| 12 | Cl.70 | Concern about consequential amendments (Negative procedure) | Officials understand our points but: WG lawyers make public law arguments that only minor and consequential amendments covered; similar provision in most Bills. WG amendment adds affirmative resolution if amending primary legislation. |
| 13 | Sch.2, paras.45 & 51 | The Bill repeals Part 7 of the Education Act 2002 (including s.101) which is used in section 47 of the Education Act 2005 to define the term ‘denominational education’. | **NEWLY IDENTIFIED** The Bill needs to amend s.47 of Education Act 2005 to update the definition of ‘denominational education’ in Wales, as the consequence of the repeal of s.101 of the Education Act 2002. Will be taken up in regulations under cl.70 and will discuss definition with us. |