

Wiltshire Council

Cabinet

13 September 2011

Public Participation

Item No. 6 - Denominational Home to School Transport

**Additional Statement following publication of Report of Rapid Scrutiny
from Father Jean-Patrice Coulon
Parish Priest for Catholic Parish of Devizes**

The final publication of the minutes of the Rapid Scrutiny Task Group was on Monday afternoon at 3.45pm. While the recommendation of Option 3 with an increased parental contribution of 10% showed some appreciation of the impact of continuity of education, I am concerned that the equalities impact of the proposal of the Council to withdraw subsidised transport for faith schools is still not being addressed.

According to the definition on the Equality and Human Rights Commission (EHRC) website, this proposal constitutes indirect discrimination against a religious group: that is to say, when “an organisation has policies, criteria or processes that put you at a disadvantage because of your religious or philosophical beliefs.” The Commission goes on to say that “in some circumstances, indirect discrimination on grounds of religion or belief may be justifiable. But only if it is considered to be a proportionate means of achieving a legitimate aim. For someone to justify indirect discrimination, they would need to show that there is a genuine business need for a policy that is a particular disadvantage to a certain religion or belief, and that there is no alternative to it.”

It would go without saying that the Council would say that its dire financial circumstances are the need requiring this discrimination. This is acknowledged, but it is hard to believe that there is no alternative given that denominational transport only represents less than 5% of the total for all home to school transport, and that the annual costs of less than £170,000 are miniscule compared to the total annual budget of close to a billion pounds of the Council.

The EHRC have recently made a submission to the European Court of Human Rights regarding whether the concept of reasonable accommodation has any useful practical application in cases concerning the manifestation of religion or belief. It explained how this might work in practice: “A situation may arise where someone believes they are being put at a disadvantage because of rules or practices that do not take into account their right to manifest their religion or belief. We believe that – where possible – ways should be found within the law of promoting the resolution of such disputes at an early stage, without protracted, costly, complex legal proceedings that irretrievably damage relations between the parties. Reasonable

accommodation would allow people to explore what might be done to overcome or reduce any disadvantage; and if any of those options were or were not reasonable.”

The EHRC invited interested parties to submit views regarding this submission. The Catholic Bishops of England and Wales responded in saying that “reasonable accommodation” should be applied to all areas of discrimination. They were concerned about the correct application of Article 9 of the European Convention of Human Rights which states that “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or the protection of the rights and freedoms of others.”

The Bishops are of the mind that “reasonable accommodation” can be achieved simply by service providers acting in a responsible and proportionate manner regarding serving people of religion. This would be a two way process which would thus avoid litigation and bad feeling through common sense and mutual give and take.

It should be clear that the right to manifest religion in our country has for many years meant the right to educate a child in a school of one’s religion. This right would be impeded if transport costs were too high to make this possible. School transport has been provided to Voluntary Aided religious schools since the 1944 Education Act (incidentally, also a time of great financial austerity) for a distance of up to 15 miles. It can be argued that reasonable accommodation was already made when the Council moved from a system of 100% payment to 50% subsidy in 2006. For some parents, this meant sacrificing a 100% subsidy because their local designated school was more than three miles away, to having to pay up to 50% because they wanted their children to go to a faith school.

Wiltshire Council must think very carefully if it is to accept any of the three options proposed which all amount to indirect discrimination against parents of faith. As I have stated before, I do not believe that Paragraph 15 of the Report published by the Department for Neighbourhood and Planning represents a full discussion of the equalities impact – there is certainly no idea of any proportionality towards a group that represents a “protected characteristic” under the Equalities Act 2010. People of religion are simply treated the same as those who choose schools for educational preference. The Local Government Ombudsman has a power of intervening if it is felt that equalities legislation is not being observed. However, in this appeal to the Cabinet Councillors, surely common sense can prevail in simply rejecting this proposal? However, in a spirit of reasonableness, it might be useful to have a discussion of increasing the parental contribution by a sum of 10% which would indicate the goodwill of the faith schools community.

Father Jean-Patrice Coulon MSFS
Parish Priest
Our Lady, the Immaculate Conception, Devizes