

PRESS RELEASE – RICHMOND INCLUSIVE SCHOOLS CAMPAIGN

14 Dec 2012

RISC NOT TO APPEAL AGAINST CATHOLIC SCHOOL RULING

Richmond Inclusive Schools Campaign (RISC) and the British Humanist Association (BHA) have announced that they will not appeal against the decision by the High Court that Richmond Council did not act unlawfully when it decided to go ahead with the exclusive Voluntary Aided Catholic schools in Twickenham. Their announcement was made at the same time as the written judgement was released by the Court.

RISC spokesperson Jeremy Rodell explained: “Anyone who has followed this story for the past 18 months and who reads the judgement will see there are a number of aspects that are open to challenge. But we recognise that it is not practical to appeal against it. Apart from the fact that we could not bear the costs, any appeal would not be heard until after places at the new schools had actually been offered for the next school year. We have no desire to risk that level of uncertainty for parents and children, and it is unlikely that, even if we won an appeal, a judge would stop the schools going ahead at that stage.

“We therefore accept that the new state-funded Catholic secondary school - along with the small primary - will open in September with an admissions policy that discriminates virtually 100% against local children whose parents are not Catholics. I know that’s a major disappointment for a lot of local people, who believe it’s simply wrong. But there’s nothing more we can do - the forces against us were simply too powerful. But RISC will not go away. There will be an announcement about our future activities shortly.

“In the meantime, I would like to thank everyone who has supported us so far. This case has received a lot of publicity. Perhaps we have brought the day a little closer when children applying to state-funded schools can no longer be discriminated against because of their parents’ beliefs.”

The case hinged on a new section (6A) of the Education Act that became effective in February this year. It says that ‘If a local authority in England think a new school needs to be established in their area, they must seek proposals for the establishment of an Academy’. New faith-based Academies/Free Schools only receive government funding if they have a maximum of 50% faith-based admissions. But instead of seeking proposals for an Academy, Richmond Council decided in May to go ahead with a Catholic Voluntary Aided secondary school so that up to 100% of places could be prioritised for children of Catholics.

In RISC’s view, the Council had repeatedly made clear over a long period that it thought there was a ‘need’ for a Catholic secondary school in the borough. When the decision to purchase the Clifden Road site for £8.5 million had been taken, the Council invited the Catholic Diocese to put forward proposals to use the site for a Voluntary Aided school, and did not seek proposals for Academies after the new Act was in force. RISC and the BHA therefore claimed that the Council had acted unlawfully by failing to seek proposals for an Academy/Free School, as the new law required.

Among the examples cited by RISC and the BHA of Council statements confirming that it thought there was a need for a new Catholic school was its [press release](#) issued at the launch of the consultation on the use of the site, in which Lord True said ‘we have provided a full background as to why a Catholic secondary school is necessary in this borough’. The consultation document itself only offered one proposal. Under the heading ‘The Council’s position to date’, there was a section entitled ‘Requirement for a Catholic school in borough’. RISC and the BHA claimed that, if the Council was now saying there was no need for such a school, the consultation was misleading.

However, Mr Justice Sales concluded that ‘in my view... it is clear that Lord True was not addressing the technical question of “need” as that term is used in section 6A, but was speaking more generally about the desirability of introducing Catholic schools into the borough... Nor do I consider that anything said in the Consultation Paper or associated questionnaires was liable to mislead the public into thinking that the Council thought there was a “need” (in the section 6A sense) for new Catholic schools, in circumstances where (as I find to be the case) it did not.’ Mr Justice Sales defined ‘need’ in the section 6A sense, which is not defined in the Act itself, as being stronger than a Council merely thinking it is beneficial to set up a new school, and accepted the Council’s arguments that in spite of Lord True’s statements, in this case it only thought the schools were beneficial, but not actually needed.

Another aspect of the judgement was that Mr Justice Sales accepted the argument of the Secretary of State for Education, who intervened in the case, that local authorities are free to approve new Voluntary Aided schools without having to seek Academy proposals. It is now expected that the loophole used to get round the “maximum 50% faith-based selection” rule that applies to new Academies/Free Schools will be exploited elsewhere.

It was because of such national implications that the BHA originally decided to participate in the case. BHA Chief Executive Andrew Copson commented, ‘As a result of Michael Gove’s intervention into this case, this ruling gives religious groups carte blanche to collaborate with councils to open fully selective schools outside of competition. This highly undemocratic, highly discriminatory route is already in practice the easiest way in which religious groups can open new schools and now it has the seal of approval from a Government whose Coalition Agreement should mandate the opposite. The ruling has not just failed to progress inclusivity in schools, but in fact it has set the whole debate back, leading to more discrimination in the school system than before.

‘We are heartened by Vince Cable’s support for increased inclusivity, and by a [recent survey](#) showing that the public opposes faith-based selection in state schools by more than four to one, but naturally disappointed not to have been successful in this case. Nonetheless, the coverage generated around the case was fantastic, and we will continue to find ways to give expression to the widespread public support for an end to religious discrimination in our state institutions.’

Notes for Editors:

For further comment or information from RISC, contact Jeremy Rodell on 07798 935569 or at communications@richmondinclusiveschools.org.uk.

For further comment or information from the BHA, contact Chief Executive Andrew Copson on 07534 248596 or at andrew@humanism.org.uk.

The full High Court ruling is available here:

[http://www.richmondinclusiveschools.org.uk/files/view/legal-challenge/R \(British Humanist Assoc\) v Richmond LBC approved judgment 14 12 12.pdf](http://www.richmondinclusiveschools.org.uk/files/view/legal-challenge/R%20(British%20Humanist%20Assoc)%20v%20Richmond%20LBC%20approved%20judgment%2014%2012%2012.pdf)

A ComRes survey for the [Accord Coalition](http://accordcoalition.org.uk) (formal backers of RISC) published on 12 November found that 73% of respondents agreed or strongly agreed that ‘state funded schools should not be allowed to select or discriminate against prospective pupils on religious grounds in their admissions policy’, while only 18% disagreed. Read the Accord press release, ‘Nearly three quarters of the British public disagrees with religious selection in admissions at state funded schools’: <http://accordcoalition.org.uk/2012/11/12/nearly-three-quarters-of-the-british-public-disagrees-with-religious-selection-in-admissions-at-state-funded-schools/>

Press release of 28 Nov “Vince Cable challenged Department on Catholic schools”:

http://www.richmondinclusiveschools.org.uk/files/view/press-releases/RISC_press_release_-_27_Nov_12_-_Vince_Cable_challenge_to_DfE_intervention.pdf

Evidence that the intention for the new Catholic schools was “get around” the 50% rule by proposing a voluntary aided school with 100% selection and then converting it to an Academy later is given in this internal DfE document (para 7) obtained via a Freedom of Information request:

http://www.richmondinclusiveschools.org.uk/files/view/other-useful-documents/diocese-consent-application/DfE_FOI_-_recommendation_on_consent_to_publish_proposals_for_secondary_school.pdf

Daily Telegraph report of 27 Nov 12 quoting Greg Pope from the Catholic Education Service confirming the general use of this “loophole” to get around the 50% rule:

<http://www.telegraph.co.uk/news/religion/9704078/Catholic-Church-snob-to-Michael-Goves-flagship-free-schools-plans.html>