

FUNDAMENTAL BRITISH VALUES

What are they and how does one respect them?

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- Why should schools care about Fundamental British Values/ To whom do they apply?
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- Why should schools care about Fundamental British Values/ To whom do they apply?
- What are the Fundamental British Values?
- How does one respect them?

To whom do they apply – Maintained Schools



- Maintained schools
- s78(1)(a) Education Act 2002:

“(1) The curriculum for a maintained school or maintained nursery school satisfies the requirements of this section if it is a balanced and broadly based curriculum which—

(a) promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society...”

- SMSC Guidance:

“This guidance relates specifically to the requirements to actively promote fundamental British values in schools and explains how this can be met through the general requirement in the 2002 Act.”

To whom do they apply – Independent Schools, Free Schools and Academies



- Part 2 of Schedule 1 to the Education (Independent School Standards) Regulations 2014
 - SMSC development - Standard 5(a):
 “[the proprietor] actively promotes the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs”
 - SMSC Guidance
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To whom do they apply – Academy Agreements



- Academy and free school: master funding agreement
 - “Curriculum”, para 2.26:
 “The Academy Trust must ensure the Academy actively promotes the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs.”
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To whom do they apply – Ofsted Inspections

- Ofsted Common Inspection Framework
- “Effectiveness of leadership and management”
- Para 28:
 - “Inspectors will make a judgement on the effectiveness of leadership and management by evaluating the extent to which leaders, managers and governors:
 - ...
 - actively promote British values”

To whom do they apply - Counter-terrorism and Security Act 2015

- Chapter 1 of Part 5 – “Preventing people being drawn into terrorism”
- s26(1):
 - “(1) A specified authority must, in the exercise of its functions, have due regard to the need to prevent people from being drawn into terrorism.”
- S29:
 - “(1) The Secretary of State may issue guidance to specified authorities about the exercise of their duty under section 26(1).
 - (2) A specified authority must have regard to any such guidance in carrying out that duty.”

To whom do they apply - Counter-terrorism and Security Act 2015

- Statutory Guidance - defines “extremism” as:

“...vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs.”
- Non-statutory Guidance:

“This advice complements the statutory guidance and refers to other relevant guidance and advice. It is intended to help schools and childcare providers think about what they can do to protect children from the risk of radicalisation and suggests how they can access support to do this.”

To whom do they apply – Those in management

- s128 Education and Skills Act 2008

“(1) The appropriate authority may direct that a person—

(a) may not take part in the management of an independent educational institution;

...

(2) A direction under this section may be given in respect of a person only on one or more prescribed grounds connected with the suitability of persons to take part in the management of an independent educational institution.”
- Reg 2 Independent Educational Provision in England (Prohibition on Participation Management) Regulations 2014
- Conduct which “*is aimed at undermining the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs;*”



To whom do they apply – Those in management

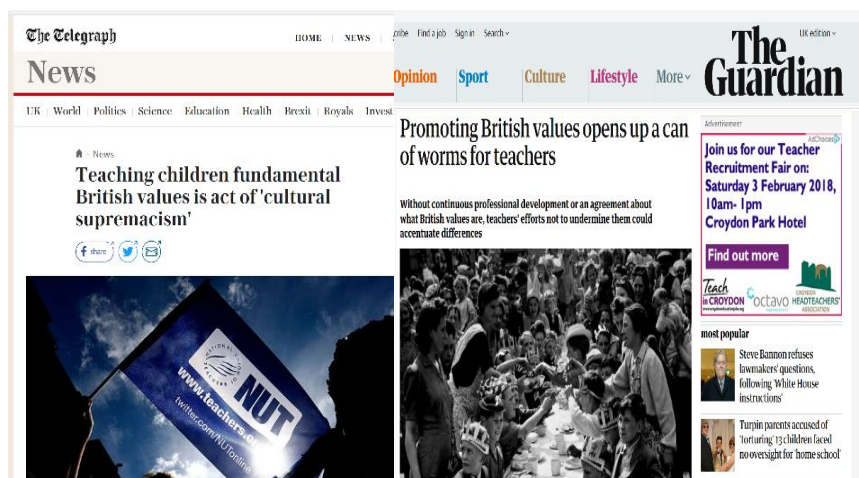
- Academy and free school: master funding agreement
- Termination: Charity Trustee or member of the Academy Trust is “unsuitable”?
- “Unsuitable” includes engaging in conduct:
“aimed at undermining the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs”



Fundamental British Values - what are they?

- Democracy
- Rule of law
- Individual liberty
- Mutual respect and tolerance of those with different faiths and beliefs

What are they - Criticism



How does one respect them?



- SMSC Guidance for Maintained Schools - objectives
 - An understanding of how citizens can influence decision-making through the democratic process;
 - An appreciation that living under the rule of law protects individual citizens and is essential for their wellbeing and safety;
 - An understanding that there is a separation of power between the executive and the judiciary, and that while some public bodies such as the police and the army can be held to account through Parliament, others such as the courts maintain independence;



How does one respect them?

- SMSC Guidance for Maintained Schools - objectives

- An understanding that the freedom to choose and hold other faiths and beliefs is protected in law;
- An acceptance that other people having different faiths or beliefs to oneself (or having none) should be accepted and tolerated, and should not be the case of prejudicial or discriminatory behaviour;
- An understanding of the importance of identifying and combatting discrimination;
- It is not necessary for schools or individuals to ‘promote’ teachings, beliefs or opinions that conflict with their own, but nor is it acceptable for schools to promote discrimination against people or groups on the basis of their belief, opinion or background.



How does one respect them?

- SMSC Guidance for Maintained Schools – steps to take

- include in suitable parts of the curriculum material on the strengths, advantages and disadvantages of democracy, and how democracy and the law works in Britain, in contrast to other forms of government in other countries;
- ensure that all pupils within the school have a voice that is listened to, and demonstrate how democracy works by actively promoting democratic processes such as a school council whose members are voted for by the pupils;

How does one respect them?



- SMSC Guidance for Maintained Schools – steps to take
 - use opportunities such as general or local elections to hold mock elections to promote fundamental British values and provide pupils with the opportunity to learn how to argue and defend points of view;
 - use teaching resources from a wide variety of sources to help pupils understand a range of faiths;
 - consider the role of extra-curricular activity, including any run directly by pupils, in promoting fundamental British values.

How does one respect them?



- Independent schools, Free schools and Academies
- Standard 5(a) :
 - “[the proprietor] actively promotes the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs”
- Guidance, Para 5: “Schools should have a clear strategy for embedding fundamental British values, and be able to show how their work with pupils is effective in doing so. Actively promoting the values also means challenging opinions or behaviours in school that are contrary to fundamental British values. Promoting views that undermine the fundamental British values would be at odds with this standard.”



How does one respect them?

- Prevent Statutory Guidance
 - Schools
 - Further education

“20. We would expect institutions to demonstrate that it undertakes appropriate training and development for principals, governors, leaders and staff. This will enable teachers and others supporting delivery of the curriculum to use opportunities in learning to educate and challenge. It will also allow leaders and teachers to exemplify British values in their management, teaching and through general behaviours in institutions, including through opportunities in the further education curriculum.

21. We would expect appropriate members of staff to have an understanding of the factors that make people vulnerable to being drawn into terrorism and to challenge extremist ideas which are used by terrorist groups and can purport to legitimise terrorist activity. We define extremism as “vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance for those with different faiths and beliefs.”



How does one respect them?

- Non-statutory guidance:

“Schools and childcare providers can also build pupils’ resilience to radicalisation by promoting fundamental British values and enabling them to challenge extremist views. It is important to emphasise that the Prevent duty is not intended to stop pupils debating controversial issues. On the contrary, schools should provide a safe space in which children, young people and staff can understand the risks associated with terrorism and develop the knowledge and skills to be able to challenge extremist arguments.”

“As with other online risks of harm, every teacher needs to be aware of the risks posed by the online activity of extremist and terrorist groups.”

How does one respect them - Mutual respect and tolerance of those with different faiths and beliefs



- *Beis Aharon Trust v Secretary of State for Education* (2016)
- Ofsted Report (2014): Inadequate - school did not actively promote fundamental British values.
- Action plan:
 - “The school would address the issue of limited understanding or appreciation of, and lack of teaching relating to, different cultures, faiths or beliefs and Equality Act issues through a weekly programme of full school assemblies.”

How does one respect them - *Beis Aharon Trust*



- 2 concerns:
 - Failure to acknowledge other faiths; and,
 - Failure to acknowledge to pupils that some people are different because of sexual orientation or gender reassignment.
- Ofsted:
 - “...the school continued to avoid discussion of issues related to some of the Equality Act protected characteristics. Pupils remained largely ignorant about other faiths and pupils had a restricted view of the role of women.”
 - “School precludes awareness of particular protected characteristics under the 2010 Equality Act and fails to promote fundamental British values”

How does one respect them - *Beis Aharon Trust*



- Witness statement for the School: *“In many ways the requirements of the DfE are against [the] beliefs of the community.”*

- Tribunal:

“Comparisons in Mr Greatorex’s submissions warning the Tribunal of the dangers of strict interpretation of British values, and comparing Ofsted’s attitude to that of the US House un-American Activities Committee in the 1950s in the US, were, in our view, wide of the target. We are not aware of any hidden agendas or evidence which implies attempts to repress difference. In any event, the standards form a part of English law and our task is to determine whether they are met.”

How does one respect them - *Beis Aharon Trust*



- Tribunal:

- **Standard 5(a)** not met:

“The school acknowledges that some other faiths exist. The evidence is not compelling: all we have is the following instruction in note of an assembly by Rabbi Twerski in January 2016, to treat equally everyone whether “Christian, Muslim, Sikh, Chinese, African, everyone”. He was able to remember little about this assembly, including what he had said beyond this brief note. Respect for and tolerance of those with different faiths requires something which goes further, and requires at least an explanation which pupils will understand so that they know that members of different faiths have different beliefs, customs and values, and something about those matters.”

How does one respect them - *Beis Aharon Trust*



- Tribunal

- **Standard 2(2)(d) and 5(b)(v)** (respect for others and cultural tolerance) not met:

“We accept the fundamental difficulty this presents to the school, but the standards which Parliament has laid down are explicit. As is made clear in guidance of November 2014, Promoting fundamental British values as part of SMSC in schools, they do not require promotion of such characteristics, but they do demand their acknowledgement (the wording “particular regard to” is clear) of the existence of all of the characteristics. Pupils will not be equipped to enter modern British society, which accepts as part of its diversity civil partnerships, gay marriage, families with same sex parents, and acceptance of transgender persons in their assigned gender.”

“We agree with the respondent that the obligation is to make pupils aware, in an age-appropriate way. We take note of the guidance of November 2014 Promoting fundamental British values as part of SMSC in schools. It makes explicit that pupils should understand how the rule of law protects individual citizens, and that pupils should be aware of the difference between religious law and the law of the land.”

What are they - Issues



- Democracy
- Rule of law
- Individual liberty
- Mutual respect and tolerance of those with different faiths and beliefs

- Tensions? *R (Butt) v SSHD* [2017] 4 WLR 154

What are they - *R (Butt) v SSHD* [2017] 4 WLR 154



- Ouseley J:
 “This case is not about the merits and wisdom of the Prevent Duty or Guidance or of its opponents, both of which could be debated endlessly but not in court.”
- Fundamental British Values vs. Fundamental British Values?

What are they - Issues



- Democracy
- Rule of law
- Individual liberty
- Mutual respect and tolerance of those with different faiths and beliefs
- Exhaustive list?
- *Al-Hijrah School v Chief Inspector of Education, Children’s Services and Skills* [2016] EWHC 2813 (Admin) and [2017] EWCA Civ 1426

What are they - *Al-Hijrah School* [2016] EWHC 2813 (Admin) and [2017] EWCA Civ 1426



- Ofsted: inadequate finding for “effectiveness of leadership and management”:
 - Books in library
 - Segregation

"[The School's segregation policy] does not accord with fundamental British values and amounts to unlawful discrimination."

"Although this has not been addressed by previous inspection teams, [the School's segregation policy] does not give due regard to the need to foster good relations between the genders, and means that girls do not have equal opportunities to develop confident relationships with boys and vice versa. This is contrary to fundamental British values and the Equality Act 2010"

What are they - *Al-Hijrah School* [2016] EWHC 2813 (Admin) and [2017] EWCA Civ 1426



• Jay J:

"44...The books concerned were published between 1993 and 2009, and contain views which are completely inimical to fundamental British values, however precisely defined."

"174 Mr Oldham also criticised one aspect of the Defendant's reasoning: that failing to treat the sexes equally amounted to a breach of fundamental British values. According to this submission, the concept of fundamental British values does not include equality of opportunity and/or sex discrimination. I can see, just about, that there may be room for a difference of opinion about this, but the point is an entirely arid one. If the Defendant were right on the law on the main ground, it had ample basis for giving the inadequate grading even without recourse to fundamental British values."

- Democracy
- Rule of law
- Individual liberty
- Mutual respect and tolerance of those with different faiths and beliefs

Where are we now – Ofsted Annual Report 16/17



- “Shared values”:

“Within state education, there are schools spreading beliefs that are widely shared within the community that the school serves but that clash with British values or equalities law. The recent case of Al-Hijrah School in Birmingham showed that an ethos that completely segregates children in school and that spreads discriminatory views about women is unacceptable. The fact that this reflects a cultural norm in that community does not mean that children can be disadvantaged in their education.”

“Tensions between belief systems and British values create a motivation for some communities to try avoiding the educational and safeguarding standards that are expected of schools. While this manifests itself in different ways, the root cause is the same. This matters, because the British values of democracy, tolerance, individual liberty, mutual respect and the rule of law are the principles that keep society free from the radical and extreme views that can often lead to violence.”

Summary – What should schools do?



- Importance of policy
- Relabelling things schools have always done
 - Citizenship classes teaching about democracy and the separation of powers;
 - Having faith days where kids learn about faiths and the importance of tolerance;
 - School council, so that kids can see how democracy is working;
 - Mock elections;
 - Teaching that all humans are equal and the importance of not discriminating against those on the basis of a protected characteristic; and,
 - Acknowledging in sex education or otherwise, the existence of homosexuality.
- The fundamental dilemma of faith schools: beginning of the end?