

BACKGROUND INFORMATION ON THE DRESS GUIDELINES FOR LEARNERS

RELIGIOUS DRESS

Guidance for Schools from the Department for Children, Families and Schools

Human Rights Background

The Human Rights Act 1998 protects the right to “manifest one’s religion or beliefs”. Various religions and beliefs require their adherents to conform to a particular dress code, or to otherwise outwardly manifest their belief. Some religions require adherents to wear or carry specific religious artefacts, others may hold a belief that they should not cut their hair, and a number of religions require their followers to dress modestly, for example, by wearing loose fitting clothing, or covering their head.

It may be possible for many religious requirements to be met within a school uniform policy and a school should act reasonably in accommodating religious requirements.

However, schools should note that the freedom to manifest a religion or belief does not mean that an individual has the right to manifest their religion or belief at any time, in any place, or in any particular manner. A school uniform policy that has the effect of restricting the freedom of pupils to manifest their religion may still be lawful, so long as this interference with pupils’ rights is justified on grounds specified in the Human Rights Act. These include health, safety and the protection of the rights and freedoms of others.

This principle has been confirmed in three recent court cases¹ when, in each case, the court found that a school uniform policy which prevented pupils from wearing particular forms of dress or artefacts associated with a religious belief was justified and so did not breach the right of a particular pupil to manifest their religion. However, each case will always depend on the circumstances of the particular school. So the judgements do **not** mean that banning such religious dress will always be justified, nor that such religious dress cannot be worn in any school in England. It is for a school to determine what sort of uniform policy is appropriate for it. In fulfilling its obligations, a school may have to balance the rights of individual pupils against the best interests of the school community as a whole. Where a school has good reason for restricting an individual’s freedoms, for example, to ensure the effective delivery of teaching and learning, the promotion of cohesion and good order in the school, the prevention of bullying, or genuine health and safety or security considerations, then the restriction of an individual’s rights to manifest their religion or belief may be justified.

Equality and discrimination issues

In formulating a uniform/appearance policy, a school will need to consider its obligations not to discriminate unlawfully on the grounds of sex, race, disability, sexual orientation and religion or belief². A school should also bear in mind the concept of “indirect” discrimination. This involves the application of a requirement, which, although applied equally to everyone, puts those of a particular gender, race, sexual orientation or religion or belief at a disadvantage because they cannot in practice comply with it. Such a requirement will need to be justified.

An example of indirect discrimination could be a school that bans ‘cornrow’ hairstyles. As these are more likely to be adopted by specific racial groups, banning this type of hairstyle without justification could constitute indirect racial discrimination.

¹ *R. (on the application of Begum) v. Denbigh High School* [2006] UKHL 15 and *R. (on the application of X) v. Y School* [2006] EWHC 298 (Admin) and *R (on the application of Playfoot) v. Millais School* [2007] EWHC 1698 (Admin)

² Sex Discrimination Act 1975; the Race Relations Act 1976; the Disability Discrimination Act 1995, the Equality Act 2006 and the Equality Act (Sexual Orientation) Regulations 2007.

Association of Colleges Joint Agreement on Guidance for Religion or Belief Equality in Employment in Further Education Colleges

The college should be mindful of cultural and religious norms in relation to dress. The wearing of items arising from particular cultural/religious norms [e.g. hijab, kippah and mangal sutra] is seen as part of a welcome diversity of styles and cultures within the college; however they need to satisfy health and safety requirements.

Wearing of Religious Dress and Symbols – reflections by the Executive Committee of the Interfaith Network for the UK

There can sometimes be a degree of ambiguity about the motivation for wearing a particular item of religious dress or a particular religious symbol: for example, about whether items such as crosses, crucifixes or prayer beads are sometimes worn as, in effect, little more than fashion accessories, or, in other cases, about whether the motivation is linked to the politics of identity rather than being simply the manifesting of piety or religious practice. However, for most wearers of religious clothes or symbols, the link to personal religious practice is a real and strong one.

It is primarily for followers of a particular tradition to address among themselves issues of appropriate religious dress and wearing of symbols in the light of its teachings. Because of the reasons that people choose to wear particular items of dress or other religious symbols, criticism of their doing so can be experienced as an attack both on the individual and on the faith itself. However, those in wider society have a legitimate interest in coming to a better understanding of the issues involved through discussion of these. At the same time, where observations are made by those from outside a particular tradition on clothes or symbols worn by its members these should always be offered with courtesy and open-mindedness and in the spirit of genuine enquiry.

In some cases there is a near universal agreement across a religious tradition about the dress requirements of that particular faith, for example in relation to the wearing by orthodox Sikhs of a turban. In other cases, such as the *niqab*, which covers the face and is worn by some Muslim women, there can be considerable internal debate within a community both about what may or may not be required and what may or may not be desirable. In yet other cases, there may be a spectrum of practice linked to different strands within a religious tradition, for example in the choice of some Christians to wear a cross, others a crucifix and yet others neither.

The view most commonly held in the UK has been that, in general, individuals should continue to be allowed to wear religious dress and symbols, if they so wish, in public as well as in private, regardless of their reasons for doing so.