

<b>COMPLAINT NUMBER</b>	17/422
<b>APPEAL NUMBER</b>	18/003
<b>APPLICANT</b>	D. Smyth
<b>ADVERTISER</b>	Churches Education Commission
<b>ADVERTISEMENT</b>	Digital Marketing
<b>DATE</b>	16 February 2018
<b>OUTCOME</b>	Declined

## SUMMARY

The Complaints Board ruled on 24 January 2018 the complaint made by D. Smyth about the Churches Education Commission website had no grounds to proceed.

The Complainant appealed the Decision. This appeal application was considered by the Chairperson of the Appeal Board. She noted the Applicant's concern the ruling was incorrect.

The Chairperson agreed with the Complaints Board determination that the brochure provided context for the "Christian Religious Education" programme offered and the reference to 'education' was unlikely to mislead people.

The Chairperson noted the concerns of the Complainant, however, disagreement with a decision was not a ground on which an appeal could be accepted and as there were no grounds on which the appeal could proceed, the application was declined.

Please note this headnote does not form part of the Decision.

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## CHAIRPERSON'S RULING

The Chairperson viewed the application for appeal. She noted that there were five grounds upon which an appeal was able to proceed. These were listed at Clause 6(c) of the Second Schedule of the Advertising Standards Complaints Board Complaints Procedures and were as follows:

- (i) The proper procedures have not been followed.
- (ii) There is new evidence of sufficient substance to affect the decision.
- (iii) Evidence provided to the Complaints Board has been misinterpreted to the extent that it has affected the decision.
- (iv) The decision is against the weight of evidence.
- (v) It is in the interests of natural justice that the matter be reheard.

The Chairperson agreed with the Decision of the Complaints Board and considered while the Applicant disagreed with it, this is not a ground for appeal.

The Chairperson noted the Complainant's detailed appeal application which raised concerns the Advertiser marketed their service as "Christian Religious Education" rather than Christian Religious Instruction" stating that CEC "have tried to hide their intention to spread Christian religious faith".

The Complainant provided further evidence as part of their appeal application to support their view there was a clear difference between Religious Instruction and Religious Education. The Complainant summarised this argument as follows:

- The difference was made clear in a Human Rights Commission document.
- The CEC are aware of the HRC document and therefore aware of the difference in terms.
- The correct term of "religious instruction" is used in the legislation that allows the CEC access to primary schools for the purpose of teaching their material.
- Religious academics have identified the distinction between the two terms and stated that the CEC are aware of it and that the CEC material is unsuitable for use in NZ state primary schools.
- The Ministry of Education legal team identified religious instruction as discriminatory.
- The CEC's own materials show a desire to promote Christian faith.
- Senior CEC staff have demonstrate their desire to access and control schools in order to promote their religious faith.
- CEC volunteers state that they wish to promote Christian faith.
- The CEC material as presented to parents completely omits any mention of the promotion of Christian faith or even core concepts of God, Jesus and Prayer.
- The promotion of religious faith is Religious Instruction.

The Complainant said, in part: "Taken at face value, the classes are merely teaching commonly held values that the Ministry of Education already require to be taught as part of the official curriculum. But this is clearly not the case. The use of 'Religious Education' in place of 'Religious Instruction' is false and misleading. Any information pertaining to this difference has been omitted from the CEC website and promotional material."

The Complainant raised other concerns about the implementation of such programmes in schools generally and raised new concerns about the brochure.

The Chairperson considered all the information provided and said, while the Complainant raised detailed arguments, the remit of the Complaints and Appeals Boards focused on the likely consumer takeout of the claim subject to complaint, and, when taken at face value, whether the claim was likely to mislead or deceive consumers to whom it is directed.

Focusing on the claim in the advertisement subject to complaint and its intended audience, the Chairperson agreed with the Complaints Board determination that the brochure provided context for the "Christian Religious Education" programme offered and the reference to 'education' was unlikely to mislead people.

The Chairperson ruled there were no grounds on which the appeal could proceed and the application was declined.

**Chairperson's Ruling:** Appeal application **Declined**

## DESCRIPTION OF ADVERTISEMENT

The Churches Education Commission provided a brochure to parents titled “What is Christian Religious Education?” which included information on their primary school programme. The brochure said, in part:

“Christian Religious Education (CRE) is a fun programme that encourages children to make positive life choices, grow in character and relate well to others. Children learn values that connect with the New Zealand School Curriculum, as set out by the Ministry of Education, combined with stories and values from the Bible that are relevant to children.”

## APPEAL APPLICATION FROM COMPLAINANT D. SMYTH

I am appealing the decision on my complaint (17/422) about religious education claims on the **Churches Education Commission** website and promotional materials on the basis that the evidence has been misunderstood. I’d also suggest that the evidence is so clear that I’m surprised that an appeal is necessary.

Below I have provided evidence to support the assertion that not only are the differences between religious instruction and religious education important and distinct, but that there is ample reason to say that the CEC is more concerned with promoting religious faith than genuine education about religion.

## Definitions of Religious Education & Religious Instruction

Firstly, let’s clarify the definitions of Religious Education and Religious Instruction. These are taken from **the Human Rights Commission** document, “Religion in NZ Schools”, produced in 2009 by Professor of Religious Studies at Victoria University, Paul Morris.

**Religious Instruction** means teaching aspects of a faith in its own right. Religious instruction carries an implicit or explicit endorsement of a particular faith and/or encourages students to engage with and make decisions about accepting it on a personal level. **An example is optional classes run by voluntary groups.** (emphasis mine)

**Religious Education**, also commonly called religious studies, refers to teaching about religion(s) as part of a broader context. An example is the role religion has played in politics, culture, art, history or literature. Religious education does not require students to engage with the religions being studied at a personal level or make choices about accepting those beliefs. Religious education can take place as part of the school curriculum.

After the ruling on this case, I contacted Professor Morris and asked him what he thought. He replied;

*“I agree with you that not only is there a distinction between Religious Education (learning about religion, or religions) and Religious Instruction or Religious Formation (being inducted within a particular faith tradition) but CEC is aware of the distinction and debate.”*

You may think that perhaps that just his opinion and that the CEC aren’t actually aware of these definitions produced by the HRC? That’s not the case. Tracey Kirkley, who is part of the marketing team that promote the classes to schools is quoted in an interview on TV One;

*Kirkley said religious education in New Zealand schools is taught according to a strict report issued by Human Rights Commission in 2009 outlining appropriate curriculum. One News (27/09/2017)*

So, it seems the CEC is fully aware of the HRC document but apparently, this “strict report” is not so strict that they won’t knowingly using the wrong term for their syllabus!

### **The CEC’s response**

The CEC state;

“By stating it is “Christian” it informs parents on the value or belief basis of the content in the programme.”

This is not true. It informs as to the type of religion only. It does not inform that faith is taught instead of fact. For example, if I attended a class called “The Creation & Expansion of ISIS”, this could be either a recruiting drive for ISIS or (hopefully), a history or political class. Merely using the word “Christian” or “ISIS”, does not imply any inherent bias. “Religious Instruction” does imply bias, which is why they don’t use that phrase.

“The brochure does not omit core information or provide ambiguity, rather it clearly explains an overview of what a CRE program provides.”

This is not true. The CEC have tried to hide their intention to spread Christian religious faith.

Nowhere in their promotional material do they say;

- That they teach children God exists.
- That they teach Jesus is the son of God.
- That they teach God created the earth.
- They pray in class and invite children to join in.
- That they wish to promote Christian religious faith.

In fact, the words “faith”, “prayer”, “God” and “Jesus” do not even appear in their brochure. How can they claim their brochure does not omit core information or provide ambiguity when it doesn’t even mention these words? The words are not “technical or legal language”, they are the reason the classes exist at all.

The CEC also mislead parents about their connection to the Ministry of Education.

They attempt to connect their syllabus to the values promoted by the Ministry of Education without any religious connection that may scare off non-Christians.

Their brochure states;

*“Children learn values that connect with the New Zealand School Curriculum, as set out by the Ministry of Education, combined with stories and values from the Bible that are relevant to children.”*

In using the wrong term (religious education) along with the claim above, the CEC is effectively connecting their programme with the curriculum and the MOE in the eyes of the pamphlet reader (ie; the primary school community). The combination of using the term “Religious Education” with the references to the MOE and the curriculum gives the completely false impression that what the children are exposed to is religious education (ie; education about religion which is part of the NZ curriculum and endorsed by the MOE) when it is not that at all.

The CEC repeat the same argument in their response to my complaint;

“The term Religious Instruction is contained within legislation, (Education Act 1964) however, this term, and the specific language of using the term “Religious Instruction”

is not required when providing a brochure for parents in a school. For people who read this brochure, the terms and language used explains what is provided. It is a program that provides an element of education, disseminates information and provides a positive value that reinforces similar values that the school community upholds ...”

**This is an intentionally misleading argument.** I didn't make the claim that the Education Act 1964 required the use of the term Religious Instruction. What it does do is define (using the term “Religious Instruction”), the only way that the CEC can teach their syllabus within a secular state school.

Omitting the term “religious instruction” is dishonest. It is deceptive to use the similar, more palatable term “religious education” to parents, that the CEC know refers to a completely different type of class that is an approved part of the NZ curriculum and endorsed by the Ministry of Education. How can this be anything but misleading?

“... an element of education...” also suggests that **education is not the main focus.**

While the CEC say they align with the values that the MOE promote, they avoid one of them - diversity.

Most parents are not aware that the Education Act 1964 means that;

- The school is required to close while the religious instruction classes take place.
- Their children are not required to attend school during this time.
- The classes are not part of the official education curriculum.

Of course, none of these facts are presented in any of the CEC material. Where is the social responsibility in omitting this? Do they expect parents to review legislation in order to understand their rights?

The CEC has a history of duplicity with regard to claims regarding the MOE. In 2007, they had an ASA ruling against them (07/033 attached) for claiming that the MOE had approved their syllabus, when that was never the case. This continued for years afterwards. In 2015, I had this claim removed from my own Daughter's school newsletters promoting Bible Classes. Either the local CEC representatives were never told about this, or they never did anything about it.

Academic Perspectives Real “Religious Education” (as per the accepted Human Rights Commission definition) would come from an academic perspective.

Here's what Victoria University's Professor of Religious Studies, Paul Morris had to say about the CEC syllabus when he reviewed two of them in 2015 (attached);

*“(a) I do not consider that the CEC's CRE teaching materials that I have examined are at all suitable for non-Christian, non-evangelical students;*

*(b) I do not consider that the assurances to parents and trustees are sufficient to make the content clear or honestly reflect their minority viewpoints; and,*

*(c) I do not view the CEC's selectivity in relation to the New Zealand curriculum's competencies and values to validate the claim that Life Choices does support the National Curriculum and it might well be at odds with it, particularly by excluding diversity and critical textual learning.”*

Professor Morris is not the only one who views the CEC in this light.

Helen Bradstock's PhD thesis, completed at the University of Otago in 2016, titled "Let's talk about Something Else: Religion and Governmentality in New Zealand's State Primary Schools" also clarifies the nature of the CEC material.

*"The CRE resources used are values-oriented, age-appropriate and attractively produced but the confessional content makes them more suitable for a Sunday school class than a secular and multi-religious state primary school.*

*The unintended consequences of the Act of 1964 have been to disqualify the study of religion from the curriculum, cutting it off from the oxygen of academic discussion and scrutiny. This has meant that a 19th century confessional style of teaching religion (albeit with modern resources) has been preserved in New Zealand schools in a way which could not have occurred in any other curriculum area."*

In an article written for the Otago Daily Times after receiving her doctorate, she discussed the distinction between religious instruction and religious education, writing;

*"Teachers and principals interviewed felt the subject of religion was ``best avoided" by class teachers..."*

and;

*"Few made the distinction between religious instruction into a belief, and religious education about a variety of religious world-views. This distinction had not been made clear during teachers' training or professional development. This means young people are not being given the opportunity to develop religious literacy: they learn to tolerate but not to understand the diverse beliefs making up New Zealand society."*

### **What about the Ministry of Education?**

The classes do not come under their purview. Effectively, they have washed their hands of the matter and resolved not to have an opinion on something that they consider to be out of their control. The school is "technically" closed for the duration of the lessons.

However, an Official Information Act request, that took two years to extract unredacted documents, shows that in 2001 the Ministry's own legal team identified religious instruction as being discriminatory under the Human Rights Act 1993 when compared to MOE legislation and policy. (see attached document)

Referring to religious instruction, sections 12, 15 and 17 say;

*"... sections 78 and 78A Education Act 1964 raise issues of discrimination on the grounds of religious belief."*

*"... should a board elect to have religious instruction, students who do not hold any religious views or who have religious beliefs that are different from those being instructed, must either attend instruction which is against their beliefs or must absent themselves from such instruction."*

*"... there is also the possibility that the provisions could be challenged on the grounds of direct discrimination, for which there is no such defence."*

While the MOE ignored this advice and appear to have done nothing about even reviewing it, what it does show in the context of my complaint, is that the provisions that allow religious instruction classes were considered to be inherently discriminatory due to the instructional (as opposed to educational) nature of the classes.

If the classes were truly religious education from an academic perspective, there would be no issue of discrimination, the classes would be part of the school curriculum, and the CEC would not need to access the school using the provisions in the Education Act 1964.

### **What else have the CEC said?**

The CEC have said themselves on page 2 of their 2012 “Using Bibles in CRE” guide (attached), that;

CRE volunteers should aim to:

- encourage children to value the Bible as a dynamic and interesting book
- encourage children to recognize the Bible as a guide to faith and holy living
- make the Bible accessible – use the class set of Bibles as often as is appropriate

The emphasis is mine but the words are theirs. They go on to say that...

“Remember that the Spirit of God will speak to the children directly through the Bible exactly as God has done to us, and all the generations before us.”

“The Bible was written by human authors but God helped them to write what he wanted them to write (2 Tim 3:16)”

It is clear that the intention is to inculcate religious faith. This is what Religious Instruction is. None of this is presented either in their website or in their brochures. The full teacher guides for the syllabus are not available for review. I have requested them directly from my Daughter’s school and the CEC and been ignored.

Older versions of CEC syllabuses that I obtained (see attached) are very clear in their aims to promote Christian faith and present God as a real being that can be understood through reading the Bible. They also encourage celebration of Christian religious events, see God as the creator of the earth and all living things, the source of morality and prompting children to pray to God. While the content may have changed, the ultimate goal has not. Despite years of claiming that they are not evangelizing, there are examples of where they have been caught out. The most telling are these quotes from past CEC National Director, David Mulholland, that appeared in a Baptist Church newsletter in 2011.

“Churches by and large have not woken up to the fact that this is a mission field on our doorstep. The children are right there and we don’t have to supply buildings, seating, lighting or heating,”

“We often hear in church about the 10-40 window for **evangelising people** in the world.  
**For me it’s a 9 to 3 window,**”

CEC affiliated volunteers are quite clear on what they are trying to achieve. (see attachments) The following quotes are from websites of the Te Awamutu Bible Chapel, the Eastgate Christian Centre and the Royal Oak Baptist Church. Two of these have been removed since the screen shots were taken in 2015.

*“Vision – To see “Today’s Children” growing up with an understanding of the Bible that will ultimately **lead them to a personal faith in Jesus.**”*

*“Only 2-4 of those children go to church. The rest may never hear that there is a God who is real and who loves them if we do not tell them.”*

*“We have a unique opportunity in NZ to be able to bring the Bible into public schools!  
‘The entrance of your word gives light.’ (Ps 119:130.)”*

If there is nothing to hide, why is this desire to spread Christian faith not mentioned on their website or any of their promotional material?

Another CEC volunteer, Pastor Damien Goodsir was exposed in 2016 as promoting his Christian faith at his local primary school using religious instruction classes. In fact he was gloating in a recorded sermon about “infiltrating” the school. The situation was worse given that he held the position of Chairman of the Board of Trustees at the school, provided the RI classes and been board-appointed as the school “Chaplain”.

Following complaints, an independent consultant was hired by the school to investigate. Ultimately, Mr Goodsir and another church member were voted off the Board of Trustees. The sermon was quickly removed from the church website.

The CEC and other supporting organisations have done this repeatedly. When they are caught out being too honest, they simply claim that they “don’t do that anymore” or that “it’s under review”, or the evidence is simply removed. One recent example is an interview from 2017 on Radio Rhema where the current National Director of the CEC called out for their supporting churches to “...own their local school.” - The interview was deleted within weeks of being exposed but you can listen to a copy of it here.

### **In response to the Complaints Board discussion & ruling**

Given all the above information, I believe it is difficult for anyone to maintain the view that there is “adequate context” given in the extremely biased material provided by the CEC.

Taken at face value, the classes are merely teaching commonly held values that the Ministry of Education already require to be taught as part of the official curriculum. But this is clearly not the case. The use of “Religious Education” in place of “Religious Instruction” is false and misleading. Any information pertaining to this difference has been omitted from the CEC website and promotional material.

There is nothing in legislation that prevents teachers from giving a class on religions within the curriculum as a history or social studies lesson. This would be a Religious Education class.

The fact is that the school has to close to allow the classes, purely because they have “an element of” religious faith teaching. It’s the only way that unqualified church volunteers can displace a paid, qualified teacher and enter a secular state school to talk about the Bible.

The board said that;

“The Complaints Board noted the Complainant’s view that there was a difference between religious education and religious instruction.”

It should be clear now that this is not simply my personal “view”.

- The difference was made clear in a Human Rights Commission document.
- The CEC are aware of the HRC document and therefore aware of the difference in terms.
- The correct term of “religious instruction” is used in the legislation that allows the CEC access to primary schools for the purpose of teaching their material.



- Religious academics have identified the distinction between the two terms and stated that the CEC are aware of it and that the CEC material is unsuitable for use in NZ state primary schools.
- The Ministry of Education legal team identified religious instruction as discriminatory.
- The CEC's own materials show a desire to promote Christian faith.
- Senior CEC staff have demonstrate their desire to access and control schools in order to promote their religious faith.
- CEC volunteers state that they wish to promote Christian faith.
- The CEC material as presented to parents completely omits any mention of the promotion of Christian faith or even core concepts of God, Jesus and Prayer.
- **The promotion of religious faith is Religious Instruction.**

This is not Religious Education!

It seems to me that the CEC are selling broccoli as ice cream, expecting us to believe it is ice cream and wondering why we don't want to buy their ice cream.

### **SUMMARY OF COMPLAINTS BOARD DECISION**

The Churches Education Commission provided a brochure to parents titled "What is Christian Religious Education?" which included information on their primary school programme. The brochure said, in part:

"Christian Religious Education (CRE) is a fun programme that encourages children to make positive life choices, grow in character and relate well to others. Children learn values that connect with the New Zealand School Curriculum, as set out by the Ministry of Education, combined with stories and values from the Bible that are relevant to children."

The Complainant was concerned the Advertiser marketed their service as "Christian Religious Education" rather than "Christian Religious Instruction".

The Advertiser said there was no requirement for them to use 'instruction' in their advertising and noted their brochure promoted their services and clearly informed parents about the content in the programme.

The Complaints Board said the brochure clearly provided context for the "Christian Religious Education" programme offered and the reference to 'education' was unlikely to mislead people. The Complaints Board said the advertisement was not in breach of Rule 2 or Basic Principle 4 of the Code of Ethics.

The Complaints Board ruled the complaint was Not Upheld.