

Research Briefing

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By Robert Long, Nerys Roberts, Alpesh Maisuria

Faith Schools: FAQs



Summary

- 1 Introduction: what is a faith school?
- 2 Frequently Asked Questions
- 3 Statistics

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Summary

The Commons Library regularly receives enquiries from Members relating to faith schools, and the particular arrangements in place relating to them. This note provides answers to some of the most common questions raised, and also some relevant statistical information. It is not intended to be a definitive guide to faith schools, but rather to provide answers to those frequently raised questions. It deals with faith schools in the state-funded sector.

This note relates to England only.

1

Introduction: what is a faith school?

The Government funds many different types of 'faith school' – that is, schools which are designated as having a faith character. Currently, around one third of state-funded schools in England have a faith designation. Faith schools can either be maintained by the local authority, or operate outside of local authority control (in the case of academies and free schools).

The vast majority of faith schools in England have a Christian faith designation, but there are also a small number of schools with other faith designations – including Muslim, Jewish and Sikh. Schools with a faith designation can use faith criteria in their oversubscription criteria, but they must (with the exception of grammar schools) offer a place to any child, where a place is available. Dependent on school type, having a faith designation may impact also on staffing policy, what is included in the Religious Education curriculum, and the ownership of the school buildings.

The gov.uk website provides the following brief <u>summary</u> of state-funded faith schools:

- Local authority maintained faith schools have to follow the national curriculum, but they can choose what they teach in religious studies.
- Maintained faith schools may have different <u>admissions</u> <u>criteria</u> and staffing policies to other state schools, although anyone can apply for a place.
- Faith academies do not have to teach the national curriculum and have their own admissions processes.

Frequently Asked Questions

2.1

9

Can faith schools use faith-based criteria in their admissions policies?

It is unlawful for maintained and independent schools to have admissions criteria that discriminate against a child on the grounds of the child's religion or belief. However, faith schools are exempt and are permitted to use faithbased oversubscription criteria in order to give higher priority in admissions to children who are members of, or who practise, their faith or denomination irrespective of designation. This exemption only applies if a school is oversubscribed.

The <u>School Admissions Code</u> provides information on the rules in this area. The Code states that:

[The Equality Act 2010] contains limited exceptions to the prohibition of discrimination on grounds of religion or belief and sex. Schools designated by the Secretary of State as having a religious character (faith schools) are exempt from some aspects of the prohibition of discrimination on the grounds of religion or belief and this means they can make a decision about whether or not to admit a child as a pupil on the basis of religion or belief. Single-sex schools are lawfully permitted to discriminate on the grounds of sex in their admission arrangements.¹

The Code further states that, when allocating places:

2.8 With the exception of designated grammar schools, all maintained schools, and academies, including schools designated with a religious character, that have enough places available must offer a place to every child who has applied for one, without condition or the use of any oversubscription criteria.2.9 Admission authorities must not refuse to admit a child solely because:

a) they have applied later than other applicants;

b) they are not of the faith of the school, in the case of a school designated with a religious character;

c) they followed a different curriculum at their previous school;

d) information has not been received from their previous school; or

¹ Department for Education, <u>Schools Admissions Code</u>, December 2021, p37

e) they have missed entrance tests for selective places.²

However, where places are oversubscribed, a faith school may use faithbased criteria for deciding which pupils are admitted. The Code sets out the following:

1.36 As with other publicly funded mainstream schools, these schools are required to offer every child who applies, whether of the faith, another faith or no faith, a place at the school if there are places available. Schools designated by the Secretary of State as having a religious character (commonly known as faith schools) may use faith-based oversubscription criteria and allocate places by reference to faith where the school is oversubscribed.

1.37 Admission authorities **must** ensure that parents can easily understand how any faith-based criteria will be reasonably satisfied. Admission authorities for schools designated with a religious character may give priority to all looked after children and previously looked after children whether or not of the faith, but they **must** give priority to looked after children and previously looked after children of the faith before other children of the faith. Where any element of priority is given in relation to children not of the faith, they **must** give priority to looked after children and previously looked after children not of the faith above other children not of the faith.

1.38 Admission authorities for schools designated as having a religious character **must** have regard to any guidance from the body or person representing the religion or religious denomination when constructing faith-based admission arrangements, to the extent that the guidance complies with the mandatory provisions and guidelines of this Code. They **must** also consult with the body or person representing the religion or religious denomination when deciding how membership or practice of the faith is to be demonstrated. Church of England schools **must**, as required by the Diocesan Boards of Education Measure 1991, consult with their diocese about proposed admission arrangements before any public consultation.³

Selection limits for Academies, Frees Schools, and Voluntary aided schools

Funding agreements for entirely new academies⁴ and free schools with a religious character require at least 50% of places to be allocated without reference to faith, where oversubscribed.

In September 2016, the Government published the consultation <u>Schools that</u> work for everyone, which included proposals to allow new faith free schools to select up to 100% of pupils based on their faith, subject to schools taking new measures to promote inclusivity.

The <u>Government response to the consultation</u> was published in May 2018, and stated that the Government had decided to retain the 50% cap. The response included the announcement of a capital scheme to support the creation of

² Department for Education, <u>Schools Admissions Code</u>, December 2021, p22-23

³ As above, p16

⁴ That is, not converters from the maintained or independent sectors, or those sponsored academies with a predecessor school

new voluntary aided schools that could have 100% faith based admission criteria subject to a 10% capital cost contribution from the provider.⁵

In May 2024, the <u>Government launched a new consultation</u>. The consultation contained two policy proposals with the aim of creating more school places at high performing academy schools:

to remove the 50% cap on faith admissions, with the aim of enabling all faith groups to apply to open new faith free schools

to allow new special academies and existing special academies with a recognised faith ethos to apply to be designated as having a religious character.

The consultation was due to close in June 2024. It will be up to the Government to decide whether to proceed with the proposals, following the general election in July 2024.

What can faith schools teach in Religious Education?

Local authority maintained secondary schools

Religious Education (RE) is compulsory for all pupils in local authority maintained schools aged 5 to 16 years unless they are withdrawn from these lessons by their parents. They are not obliged to give a reason, and the school is expected to comply with the request. The statutory provisions relating to religious education are contained in sections 69 and 71 and schedule 19 of the <u>School Standards and Framework Act 1998</u>, as amended.

RE in schools without a religious character must follow the agreed syllabus for the area. The agreed syllabus is drawn up by the local education authority (LEA), taking advice from local bodies. All locally agreed syllabuses must reflect the fact that the religious traditions in Britain are mainly Christian, whilst taking account of the teaching and practices of the other principal religions. There is no stipulation about non-religiosity in the Act, however the subject has been raised recently in the Lords.⁶

RE in a school with a religious character must be provided in accordance with the school's trust deed or, where provision is not made by a trust deed, in accordance with the beliefs of the religion or denomination specified in the order that designates the school as having a religious character.

In a community, foundation or voluntary controlled school with a religious character, RE must be provided in accordance with the locally agreed

⁵ See also Department for Education, <u>Drive to create more good school places for families</u>, 11 May 2018

⁶ HL Deb 18 January 2024 c75GC

syllabus for the area. However, where parents request it, provision may be made in accordance with the schools trust deed or, where provision is not made by trust deed, in accordance with the beliefs of the religion or denomination specified in the order.

RE in voluntary aided (VA) schools must be provided in alignment with the trust deed of the school and the wishes of the governing body.

Academies and Free Schools

Requirements for academies broadly reflect the provisions that apply to local authorities and schools in the maintained sector. The requirements, including the type of RE that an academy provides, will be set out in the funding agreement between the individual academy trust and the Secretary of State.

Further information

Broader information on RE is provided in the Library briefing, Reliaious Education in schools.

Can faith schools use faith as a criterion when hiring staff?

Under the Equality Act 2010 (EA 2010), faith schools are permitted to take into account religious considerations in employment matters relating to headteachers and teachers, in accordance with the School Standards and Framework Act 1998.

EA 2010, Schedule 22, para 4, provides that a person (including a school, under the relevant definitions) does not contravene the Act only by doing something that it is required to do for the purposes of:

> (a) section 58(6) or (7) of the School Standards and Framework Act 1998 (dismissal of teachers because of failure to give religious education efficiently);

(b) section 60(4) and (5) of that Act (religious considerations relating to certain appointments);

(c) section 124A of that Act (preference for certain teachers at independent schools of a religious character).

Those provisions give independent and voluntary schools a broad discretion to make appointments on the basis of religious belief. For example, in relation to independent faith schools, section 124A of the 1998 Act provides that:

> (2) Preference may be given, in connection with the appointment, promotion or remuneration of teachers at the school, to persons

(a) whose religious opinions are in accordance with the tenets of the religion or the religious denomination specified in relation to the school under section 124B(2), or

(b) who attend religious worship in accordance with those tenets, or

(c) who give, or are willing to give, religious education at the school in accordance with those tenets.

(3) Regard may be had, in connection with the termination of the employment or engagement of any teacher at the school, to any conduct on his part which is incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination so specified.

Department for Education <u>Staffing and employment advice for schools</u> provides detailed explanation of the position in relation to maintained schools with a faith designation:

6.1 The governing body in a voluntary-aided school may give preference with regard to the appointment, remuneration and promotion of teachers at the school, to persons: \cdot whose religious opinions are in accordance with the tenets of the school's religion; \cdot who attend religious worship in accordance with those tenets; or \cdot who give, or are willing to give, religious education at the school in accordance with those tenets.

6.2 The governing body may also have regard, in connection with the termination of the employment of a teacher at the school, to any conduct by the teacher which is incompatible with the precepts of, or with the upholding of the tenets of the school's religion.

6.3 Where the number of teachers at a foundation or voluntary-controlled school with a religious character is more than two, the teachers must include persons who are selected for their fitness and competence to teach religious education in accordance with the school's trust deed or with the tenets of the school's religion and are specifically appointed to do so. These are known as 'reserved teachers'. The number of reserved teachers must not exceed one fifth of the total number of teachers including the head teacher. The head teacher can be selected on these grounds but must count towards the one fifth quota.

6.4 When appointing a head teacher who is not to be a reserved teacher, the governing bodies of foundation and voluntary-controlled schools with a religious character may have regard to that person's ability and fitness to preserve and develop the religious character of the school.⁷

The DfE's <u>Equality Act 2010: advice for schools</u> states that academies, free schools and independent schools with a religious character generally operate under conditions which mirror those in voluntary aided schools.⁸

⁷ Department for Education, <u>Staffing and employment advice for schools</u>, October 2021, p27

⁸ Department for Education, Equality Act 2010: advice for schools, May 2014, p42

Do particular rules apply in the inspection of faith schools?

In faith academies, foundation or voluntary faith schools, Ofsted inspectors must not comment on the content of religious worship or on denominational religious education (RE), although they may attend and comment on the contribution of those lessons to the school's wider aims, such as pupils' spiritual, moral, social and cultural development.

Particular provision for the inspection of RE and collective worship in these schools is contained in <u>section 48 of the Education Act 2005</u>. Ofsted's <u>School</u> <u>Inspection Handbook</u> provides information on the appointment of these inspectors:

In most [schools with a religious character], denominational education and collective worship are inspected by a body appointed by the maintained school's board of governors under section 48 of the Education Act 2005 or as provided in the academy's funding agreement. In a voluntary controlled school designated as having a religious character, we inspect RE, but not collective worship.

147. Inspectors may gather evidence from anywhere relevant (including RE lessons and assemblies) to evaluate pupils' spiritual, moral, social and cultural education, personal development and/or behaviour and attitudes.

148. The fact that the school has been designated as having a religious character must be referenced in the 'information about this school' section of the inspection report.

149. Section 48 inspections or the equivalent inspection of an academy) are usually carried out every 3 to 5 years (and usually within 2 to 3 years of a new voluntary-aided school or academy or free school opening).⁹

All Church of England dioceses and the Methodist Church use the National Society's framework for the <u>Statutory Inspection of Anglican and Methodist</u> <u>Schools</u> (SIAMS) for section 48 inspections.

2.5

Can schools become faith schools when converting to academy status?

Schools cannot acquire or remove a faith character as part of the academy conversion process. The Government's information on <u>conversion relating to</u> <u>faith schools</u> notes:

⁹ Ofsted, <u>School Inspection Handbook</u>, January 2024

If your school has a religious character, you will also need to get approval from your religious body (for example, the local diocese for a church school) before you can apply [to become an academy].

You will need to send us a copy of their approval later in the conversion process.¹⁰

2.6 Can faith schools teach creationism?

The following response to a Parliamentary Question from 2014 sets out the position relating to the teaching of creationism:

Mr Godsiff: To ask the Secretary of State for Education what penalties would be incurred by a free school, academy or other educational establishment which was found to be teaching or otherwise supporting creationism. [202221]

Mr Timpson: State-funded schools, including free schools and academies, should not teach creationism as an evidence-based scientific theory. Outside of science lessons, it is permissible for schools to cover creationism as part of religious education lessons, providing that this does not undermine the teaching of established scientific theory. Academies and free schools are required to teach a broad and balanced curriculum and the model funding agreement now prohibits the teaching of creationism as an evidence-based theory. Independent schools must comply with the independent school standards, and are subject to inspections by Ofsted or an alternative inspectorate.

All state-funded schools are subject to Ofsted inspections and a range of intervention powers are in place if required. In addition, any breach of academy or free school funding agreements in relation to creationism would be swiftly dealt with by the Department for Education and could result in the termination of the funding agreement.¹¹

Do children attending faith schools have particular rights relating to school transport?

Concerns are often raised about the impact of the rules relating to free school transport on children who attend faith schools. Many of these rules provide rights to transport to the nearest 'suitable school' for a child, which is defined as:

¹⁰ Department for Education, <u>Convert to an academy: guide for schools</u>, 21 March 2024

¹¹ HC Deb 30 Jun 2014 c351W

the nearest qualifying school that is suitable for the child's age, ability, aptitude and any Special Educational Needs they may have. It should also be suitable for the child's sex.¹²

However, parents who would like to send their child to a faith school may do so in preference to another 'suitable school' that is closer, and find their rights to free school transport impacted.

<u>DfE guidance</u> lays out statutory duties of local authorities to provide free school transport. It states that local authorities must:

provide free transport for all pupils of compulsory school age (5-16) if their nearest suitable school is:

- beyond 2 miles (if below the age of 8); or
- beyond 3 miles (if over the age of 8)¹³

'Extended rights' eligibility also requires local authorities to:

- provide free transport where pupils are entitled to free school meals or a parent with whom they live is in receipt of maximum Working Tax Credit if:
- the nearest suitable school is beyond 2 miles (for children over the age of 8 and under 11);
- the school is between 2 and 6 miles (if aged 11-16 and there are not three or more suitable nearer schools);
- the school is between 2 and 15 miles and is the nearest school preferred on the grounds of religion or belief if, having regard to that religion or belief, there is no suitable school nearer to their home (aged 11-16).¹⁴

Some additional duties are in place, for instance for children with special educational needs, and in relation to children whose journey to school might take them along unsafe walking routes.

Beyond these requirements, local authority provision of school transport is discretionary. The guidance sets out how local authorities should approach transport to faith schools and the consideration that should be given to relevant issues.¹⁵

¹² Department for Education, <u>Travel to school for children of compulsory age statutory guidance for</u> <u>local authorities</u>, January 2024, p9

¹³ As above, p9

¹⁴ As above, p16

¹⁵ As above, p8

2.8 How can new faith schools be opened?

Free schools

There is a <u>presumption in law</u> that all new schools, including faith schools, will be free schools, which operate as academies.¹⁶

Currently, new faith free schools and academies may allocate half of places using faith-based admissions criteria when the school is oversubscribed. The rest must be allocated without reference to faith.

As noted above, in May 2024, the <u>Government launched a new consultation</u>. The consultation contained two policy proposals with the aim of creating more school places at high performing academy schools:

- to remove the 50% cap on faith admissions, with the aim of enabling all faith groups to apply to open new faith free schools
- to allow new special academies and existing special academies with a recognised faith ethos to apply to be designated as having a religious character.

The consultation is due to close in June 2024.

A <u>free school application guide</u> has been published by the DfE. There are 'waves' of applications rather than a continuously open process, although local authorities may also run competitions for new free schools, where they believe there is demand for new school places in their area.

Separate guidance is in place for the process to <u>establish special free</u> <u>schools</u>.

Waves of applications may have specific requirements.

A faith free school may be established by the usual process. However, there are additional requirements for schools that want to establish themselves legally with a religious character. Annex C of the <u>guidance</u> provides an overview.

Faith schools: Voluntary aided schools (VA)

It is possible to open new voluntary aided faith school. These are a type of maintained faith school. In VA schools, a charitable organisation such as the Church contributes to building costs and is involved in the running of the

¹⁶ Section 6A, Education and Inspections Act 2006

school. Guidance on <u>opening maintained schools</u> provides advice on the relevant process (see pages 17-18 on 'section 11 proposals').¹⁷

2.9 Do faith schools have to teach Relationships and Sex Education?

The Children and Social Work Act 2017, as amended, requires:

- All primary schools in England to teach age-appropriate 'relationships education'; and

Since September 2020, these requirements have applied to all schools in England – local authority maintained, academies and independent and statutory guidance requires the teaching of relationships and health education.

Faith schools are required to teach these subjects. The guidance states that all schools should take the religious background of their pupils into account when planning teaching, but notes that faith schools may use their faith to inform what is taught:

All schools may teach about faith perspectives. In particular, schools with a religious character may teach the distinctive faith perspective on relationships, and balanced debate may take place about issues that are seen as contentious. For example, the school may wish to reflect on faith teachings about certain topics as well as how their faith institutions may support people in matters of relationships and sex.¹⁸

In March 2023, the <u>Prime Minister announced</u> that the Department for Education would be conducting a review of the Relationship and Sex Education (RSE) statutory guidance. The consultation on revised guidance opened in May 2024, and is due to close on 11 July 2024. Again, the decision on whether to implement the proposals will be one for the Government following the general election.

The Library briefings <u>Relationships and Sex Education in Schools</u> (<u>England</u>),and <u>Comparing the school curriculum across the UK</u>, provides information on what will be taught at different ages.

¹⁷ Department for Education, <u>Opening and closing maintained schools</u>, January 2023, p17-18

¹⁸ Department for Education, <u>Relationships Education</u>, <u>Relationships and Sex Education (RSE) and</u> <u>Health Education: statutory guidance</u>, June 2019, p12-13

What do faith schools have to teach about same sex marriage?

During the passage of the then Marriage (Same Sex Couples) Bill there was considerable debate about the implications of the legislation for teachers in schools. The then Equalities Minister, Maria Miller, made a statement in December 2012 on this issue:

Mr Julian Brazier (Canterbury) (Con): Will my right hon. Friend reassure us that whatever is announced tomorrow, no teacher will face prosecution or civil action as a result of espousing a Christian view of marriage?

Maria Miller: My hon. Friend is right to raise this issue, which has been a concern for many of our constituents. I can confirm that nothing will change what children are taught. Teachers will be able to describe their belief that marriage is between a man and a woman, while acknowledging that same-sex marriage will be available. It is important to reassure people. There is a great deal of what perhaps one could call scaremongering. It is important that teachers and faith schools are aware that they will continue to enjoy the same situation as they do now.¹⁹

The Equality and Human Rights Commission (EHRC) provide guidance laying out <u>Implications for Marriage and the Law</u>. They state that the Marriage (Same Sex Couples) Act 2013 does not change education law, but it does impact upon the legal duty on maintained schools to teach about 'the nature of marriage', which now covers marriage of both opposite sex and same sex couples. The EHRC also say that teachers must adhere to rules about the education curriculum and the religious ethos of the school.

Since September 2020, Relationships Education has been compulsory for all primary school pupils, and Relationships and Sex Education (RSE) for all secondary pupils. The expectations are set out in the <u>Relationship and Sex</u> <u>Education(RSE) statutory guidance</u>.

<u>The DfE's education hub</u> states that, all schools must have a written policy for Relationships Education and RSE, and consult parents in developing and reviewing their policy.

Schools should also ensure that the policy meets the needs of pupils and parents and reflects the community they serve. However, parental consultation does not include a veto on curriculum content. Parents have a right to request that their child is withdrawn from sex education, but not from Relationships Education.

In primary schools, the guidance includes learning that stable, caring relationships, which may be of different types, are at the heart of happy families, and are important for children's security as they grow up. Primary schools may also teach sex education where appropriate in order to meet the

¹⁹ HC Deb 10 December 2012, c 31

needs of their pupils. Relationship, sex, and health education is <u>inspected by</u> <u>Ofsted</u>.

3 Statistics

3.1 Number of faith schools

In January 2023, there were 6,806 state funded faith schools in England (around 34% of all state-funded mainstream schools).²⁰

The majority were primary schools; 6,177 or around 37% of state funded mainstream primaries.²¹ The 629 secondary faith schools made up only 18% of all state funded mainstream secondaries. The proportion of state funded faith schools has increased slightly over time (from 35% of primaries and 16% of secondaries in January 2000).

Church of England schools were the most common type among primary schools (26% of all primaries); Roman Catholic schools the most common at secondary level (9%). Non-Christian faith schools remained very much in the minority (when combined they made up less than 1% of all state-funded mainstream schools).

While the number of Christian schools has fallen slightly since 2007 the number of non-Christian faith schools has increased. Between January 2007 and September 2017 the number of Jewish schools increased by 12, Muslim schools by 24, Sikh schools by 10, and all 7 of the Hindu schools have opened during this period.²²

There have been Jewish state schools since the establishment of the 'modern' primary and secondary systems in the first half of the 20th century. The first Muslim state school was established in 1997 and opened in 1998, the first Sikh school opened in 1999 and the first Hindu school opened in 2008.²³

Pupils

In January 2023 around 2 million pupils were taught in state-funded faith schools (28% of primary and 18% of secondary pupils).²⁴

²⁰ Department for Education, <u>Schools, pupils and their characteristics</u>: January 2023, published 8 June 2023, <u>custom table</u>

²¹ As above

²² Department for Education, <u>Get information about schools database</u>, accessed 24 May 2024

²³ As above

²⁴ Department for Education, <u>Schools, pupils and their characteristics: January 2023</u>, published 8 June 2023, <u>custom table</u>

The current rate of primary pupils educated in faith schools is the same as in 2000. The rate at secondary level is slightly higher than in 2000 (when it was 15%).²⁵

Regional and local authority variation

At the primary level, the North West and South West regions had the highest proportion of pupils attending faith schools in 2023 (42% and 35% respectively). London had the lowest at 21%.

At secondary level the North West (30%) and the North East (24%) had the highest proportion of pupils attending faith schools and the East of England (12%) and the South West (12%) had the lowest.

The range of the proportion of pupils attending faith schools at a local authority level is wider, ranging from 8% in Thurrock and North East Lincolnshire to 52% in Wigan and Westminster. 26

Local authorities with % of pupils at faith so State-funded mainstream so England, January 2023	chools	Local authorities with H % of pupils at faith sch State-funded mainstream scho England, January 2023	ools
Thurrock	7.7	Westminster	52.4
North East Lincolnshire	7.9	Wigan	52.2
Newham	9.3	Blackburn with Darwen	50.9
Milton Keynes	9.9	Knowsley	49.3
Luton	10.0	Liverpool	49.0
Cornwall	10.3	Kensington and Chelsea	48.8
Medway	12.0	Bolton	45.9
Rotherham	12.3	Lancashire	45.5
Bedford	12.4	Hammersmith and Fulham	44.5
Sheffield	12.5	St. Helens	43.2

Source: Department for Education, <u>Schools, pupils and their characteristics: January 2023</u>, published 8 June 2023, <u>custom table</u>

Deprivation and ethnicity

In January 2023, 20% of pupils at state-funded primary faith schools were eligible for free school meals compared to 25% at non-faith primaries. Rates at faith secondary schools were also slightly below those in non-faith secondaries (21% compared to 23%).²⁷

²⁵ Department for Education, <u>Schools, pupils and their characteristics: January 2023</u>, published 8 June 2023, and Department for Education, Schools in England 2000

²⁶ Department for Education, <u>Schools, pupils and their characteristics: January 2023</u>, published 8 June 2023, <u>custom table</u>

²⁷ Department for Education, <u>Schools, pupils and their characteristics: January 2023</u>, published 8 June 2023, school-level underlying data

33% of pupils at faith primary schools had an ethnic background other than White British, this was below the non-faith primary average (39%). However, there were higher rates of non-White British pupils in faith secondary schools than the non-faith secondary average (44% compared to 36%).²⁸

²⁸ Department for Education, <u>Schools, pupils and their characteristics: January 2023</u>, published 8 June 2023, school-level underlying data

Faith Schools: FAQs

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