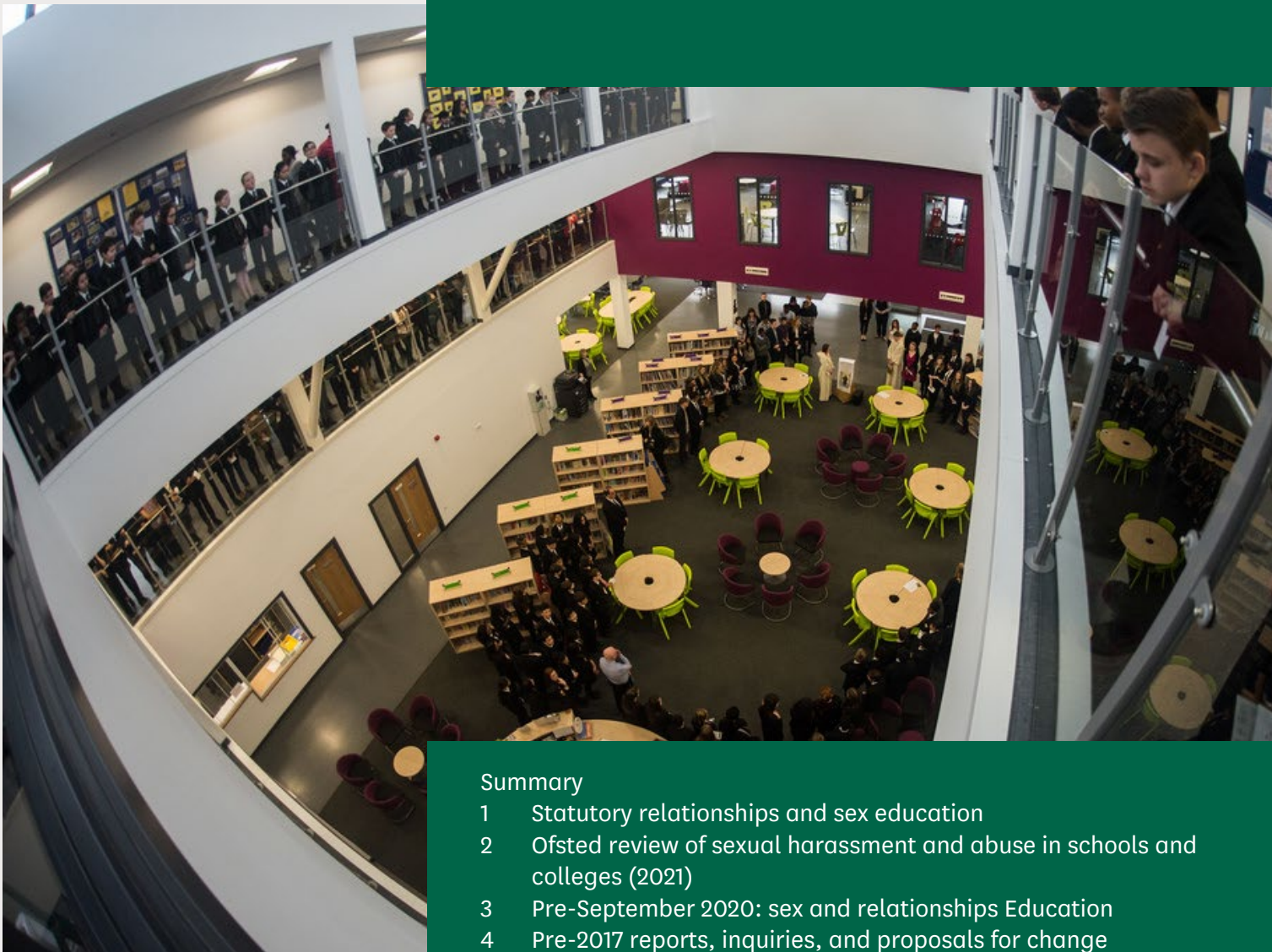


By Robert Long
23 March 2023

Relationships and sex education in schools (England)



Summary

- 1 Statutory relationships and sex education
- 2 Ofsted review of sexual harassment and abuse in schools and colleges (2021)
- 3 Pre-September 2020: sex and relationships Education
- 4 Pre-2017 reports, inquiries, and proposals for change
- 5 Reforms to Independent School Standards; Teaching about same-sex marriage

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Contents

Summary	5
1 Statutory relationships and sex education	7
1.1 Announcement and legislation: 2017	7
1.2 DfE Policy Statement and development of guidance	8
Consultation on draft guidance	8
Consultation response	9
1.3 Statutory guidance: curriculum content	9
Early adopters and developing support	14
Funding	14
Coronavirus pandemic: postponement of requirements to summer 2021	15
Right to withdraw children from sex education	15
1.4 Review of RSE guidance	16
1.5 Health education	17
2 Ofsted review of sexual harassment and abuse in schools and colleges (2021)	18
3 Pre-September 2020: sex and relationships Education	21
3.1 Overview	21
Parents’ rights to withdraw a child from SRE	22
3.2 Academies and Free Schools	22
4 Pre-2017 reports, inquiries, and proposals for change	24
4.1 POSTnote on relationships and sex Education	24
4.2 2008 Review of SRE and the Children, Schools and Families Act 2010	25
4.3 Ofsted report on PSHE and the teaching of SRE (2013)	25
4.4 Proposals for compulsory SRE and to update Sex and Relationship Education Guidance (2013-16)	26
Amendment to Children and Families Bill (2013)	26

	Calls for updated guidance	27
	Private Member's Bills and other parliamentary activity	27
4.5	Education Committee Inquiry (2014-15)	28
	Letter from select committee Chairs (January 2016)	29
4.6	Government decision not to make PSHE statutory (February 2016)	30
	Subsequent Government comment and reconsideration	30
4.7	Labour commitment to statutory PSHE	31
4.8	Women and Equalities Committee inquiry into sexual harassment and sexual violence in schools (2016)	31
	New letter from select committee Chairs (November 2016)	32
5	Reforms to Independent School Standards; Teaching about same-sex marriage	33
5.1	Background	33
5.2	Reforms to the independent school standards regulations	34
5.3	Independent school standards guidance	36

Summary

On 1 March 2017, the then Education Secretary, Justine Greening, announced her intention to put relationships and sex education [on a statutory footing](#).

This led to section 34 of the Children and Social Work Act 2017, which requires regulations to be made for relationships and sex education to be taught in all schools in England.

The legal requirement came into force on 1 September 2020 and means that:

- All primary schools in England teach relationships education.
- All secondary schools teach relationships and sex education.
- Reformed statutory guidance for schools is in place, following consultation.
- The right of parents to withdraw their children from sex education has been retained. Children approaching age 16 have new rights to ‘opt-in’.
- Schools can remain flexible in their approach. This includes faith schools being allowed to teach within the tenets of their faith.

Regulations and guidance on relationships and sex education

[The Relationships Education, Relationships and Sex Education and Health Education \(England\) Regulations 2019](#) confirmed the legal changes. Statutory health education in schools was also introduced as part of the reforms.

Final statutory guidance on [relationships education, relationships and sex education \(RSE\) and health education](#) was published by the Department for Education in June 2019.

The disruption caused by the coronavirus pandemic meant that [schools could delay the introduction of the new requirements until summer 2021](#), if they were not ready to begin teaching the revised subjects.

The DfE has published a [FAQs briefing](#) on the changes.

In March 2023, the [Prime Minister announced](#) that the Department for Education would be conducting a review of the RSE statutory guidance.

Ofsted's review of sexual harassment and abuse in schools

In March 2021, the Government asked Ofsted to immediately [review safeguarding policies](#) in state and independent schools in relation to sexual harassment and abuse.

[The review was published in June 2021](#). It depicted “widespread” sexual harassment in schools, and made recommendations for action from schools, government, and Ofsted to address the problem.

These included a carefully sequenced relationships and sex education curriculum with time to discuss topics young people find particularly difficult, such as consent and the sending of ‘nudes’, and high-quality training for teachers.

1 Statutory relationships and sex education

1.1 Announcement and legislation: 2017

On 1 March 2017, the then Education Secretary, Justine Greening, [announced](#) her intention to put ‘relationships and sex education’ – rather than sex and relationships education – on a statutory footing. She also announced her intention to create a power to make personal, social, health and economic education (PSHE) statutory in future, following further work and consultation. The necessary legislation was passed shortly before the dissolution of parliament for the 2017 General Election.

The relevant sections of the [Children and Social Work Act 2017](#) require:

- All primary schools in England to teach age-appropriate ‘relationships education’; and
- All secondary schools in England to teach age-appropriate ‘relationships and sex education’

These changes apply to all schools in England – local authority maintained, academies and independent.

The Education Secretary stated:

The statutory guidance for Sex and Relationships Education was introduced in 2000 and is becoming increasingly outdated. It fails to address risks to children that have grown in prevalence over the last 17 years, including cyber bullying, ‘sexting’ and staying safe online. [...]

Schools will have flexibility over how they deliver these subjects, so they can develop an integrated approach that is sensitive to the needs of the local community; and, as now, faith schools will continue to be able to teach in accordance with the tenets of their faith.¹

It was initially intended that these changes be implemented from September 2019, although that was later moved back to September 2020.

¹ [HC Deb 1 March 2017, HCWS509](#)

1.2

DfE Policy Statement and development of guidance

The Department for Education [Policy Statement \(PDF\)](#), also published in March 2017, gave an indication of the intended focus of RSE and the issues that would be focused on in its teaching:

- **Different types of relationships**, including friendships, family relationships, dealing with strangers and, at secondary school, intimate relationships;
- How to recognise, understand and build **healthy relationships**, including self-respect and respect for others, commitment, tolerance, boundaries and consent, and how to manage conflict, and also how to recognise unhealthy relationships;
- How relationships may affect **health and wellbeing, including mental health**;
- Healthy relationships and **safety online**; and
- Factual knowledge, at secondary school, around **sex, sexual health and sexuality**, set firmly within the context of relationships.²

Call for evidence

On 19 December 2017, the Department for Education published a [call for evidence on changes to teaching of sex and relationship education, and PSHE](#). The call for evidence was open until 12 February 2018.³

Appointment of adviser

In November 2017 the Government [announced](#) that Ian Bauckham, formerly a headteacher and President of the Association of School and College Leaders from 2013-14, had been appointed as an adviser to the Department for Education on how relationships education, including relationships and sex education for older children, should be taught in schools.⁴

Consultation on draft guidance

In July 2018, the Department for Education published draft statutory guidance and regulations for the implementation of the reformed relationships and sex education. The changes would become compulsory from September 2020, with schools able to begin implementing the changes from September 2019.

² Department for Education, [Policy Statement: Relationships Education, Relationships and Sex Education, and Personal, Social, Health, and Economic Education](#), March 2017

³ Department for Education, [Education Secretary launches RSE call for evidence](#), 19 December 2017

⁴ Department for Education, [Relationships and Sex Education for the 21st Century](#), 6 November 2017

The [announcement](#) included the introduction of statutory health education alongside statutory RSE.⁵

A [consultation](#) was opened on [draft regulations](#) and [draft statutory guidance](#) to implement the changes. The [Government response to the December 2017 call for evidence](#) was published alongside the consultation.

The consultation was open until 7 November 2018. In November 2018, the Schools Minister, Nick Gibb, told the House that more than 40,000 individuals had responded to the consultation.⁶

Consultation response

The Government published its [response to the consultation](#), alongside updated [draft regulations](#) and [draft guidance](#), on 25 February 2019.

1.3

Statutory guidance: curriculum content

Following the progress through Parliament, [The Relationships Education, Relationships and Sex Education and Health Education \(England\) Regulations 2019](#) were made in May 2019. These regulations confirm that the RSE changes came into force in September 2020.

Final statutory guidance on [Relationships education, relationships and sex education \(RSE\) and health education](#) was published by the Department for Education in June 2019. The statutory guidance sets out the requirements intended to be compulsory from September 2020.

The DfE also published a [FAQs briefing](#) on the changes.⁷

The statutory guidance confirms that the requirements on relationships education and RSE apply in all schools. The new requirements on health education apply in state schools but not independent schools – this is because the broader subject of Personal, Social, Health, and Economic Education (PSHE) is already required under the independent school standards. The statutory requirements would not apply to sixth form colleges, 16-19 academies or Further Education colleges.⁸

Under the guidance, all schools must have in place a written policy for relationships education and RSE. It is **mandatory** to provide:

⁵ Department for Education, [New relationships and health education in schools](#), 19 July 2018

⁶ [HC Deb 12 Nov 2018 vol 649 c9](#)

⁷ Department for Education, [Relationships education, relationships and sex education \(RSE\) and health education: FAQs](#), 29 April 2019

⁸ Department for Education, [Relationships Education, Relationships and Sex Education \(RSE\) and Health Education: Statutory guidance for governing bodies, proprietors, head teachers, principals, senior leadership teams, teachers](#), June 2019, p10

- Relationships education at primary school
- Relationships and sex education at secondary school

Primary schools may offer age-appropriate sex education if they wish, but this is not a requirement.

In September 2020, the Department for Education published:

- Guidance for schools to [Plan your relationships, sex and health curriculum](#)
- Guidance for [Teaching about relationships, sex and health](#), including training modules to teach aspects of RSE and also health education at both primary and secondary level

What must be taught

The guidance provides an overview of what children must learn by the end of primary and secondary school, as part of relationships education and RSE respectively, in tables provided on pages 20-22 and 27-29 of the guidance.

From September 2020, the law requires primary schools to consult on their Relationships Education policy. The DfE has published a guide for head teachers on [Parental engagement on relationships education](#), to set out how this is intended to operate. As the guidance makes clear, parental involvement is important but does not amount to a veto over a school's curriculum.⁹

To summarise, at **primary** level, children should learn about subjects including:

- Families and people who care for me
 - Including: the importance of families for children growing up; characteristics of healthy family life; varieties in family life, and how to recognise if family relationships are making them feel unhappy or unsafe; and how to seek help or advice from others if needed
- Caring friendships
 - Including: the importance and characteristics of friendships; and how to recognise who to trust and who not to trust
- Respectful relationships
 - Including: the importance of respecting others and of self-respect; about different types of bullying (including cyberbullying); and

⁹ Department for Education, [Parental engagement on relationships education](#), October 2019, p5

the importance of permission-seeking and giving in relationships with friends, peers and adults.

- Online relationships
 - Including: the rules and principles for keeping safe online. that people sometimes behave differently online, sometimes pretending to be someone they are not; and awareness of the risks associated with people they have never met.
- Being safe
 - Including: appropriate boundaries in peer friendships; the concept of privacy and implications for relationships; that each person's body belongs to them; how to respond to adult strangers, including online; and how and where to ask for advice or help for themselves and others.

At **secondary** level, building on primary-level relationships education, pupils should learn about topics including:

- Families
 - Including: that there are different types of committed, stable relationships, and the importance of those relationships in raising children; what marriage and civil partnerships are; why marriage is an important relationship choice for many couples and why it must be freely entered into; the characteristics and legal status of other types of long-term relationships; the role of parents; how to assess the safety of a relationship
- Respectful relationships, including friendships
 - Including: the characteristics of healthy friendships on and offline; the damaging effect of stereotypes; different types of bullying (including cyberbullying); criminal behaviour within relationships; what constitutes sexual harassment and sexual violence; legal rights and responsibilities regarding equality
- Online and media
 - rights, responsibilities and opportunities online; online risks; not to provide material to others that they would not want shared further; the impact of viewing harmful content; that specifically sexually explicit material often presents a distorted picture of sexual behaviours; that sharing and viewing indecent images of children (including those created by children) is against the law
- Being safe

- the concepts of, and laws relating to, sexual consent, sexual exploitation, abuse, grooming, coercion, honour-based violence and FGM, harassment and domestic abuse and how these can affect current and future relationships; how people can actively communicate and recognise consent from others, including sexual consent, and how and when consent can be withdrawn (on and offline)
- Intimate and sexual relationships, including sexual health
 - the characteristics and positive aspects of healthy one-to-one intimate relationships; that all aspects of health can be affected by choices they make in sex and relationships, positively or negatively; the facts about reproductive health; managing sexual pressure, including understanding peer pressure; choice to delay sex or to enjoy intimacy without sex; contraception; facts around pregnancy including miscarriage; choices in relation to pregnancy (with medically and legally accurate, impartial information on all options, including keeping the baby, adoption, abortion and where to get further help); information about sexually transmitted infections (STIs), including risk reduction and testing; how the use of alcohol and drugs can lead to risky sexual behaviour; how to get further advice, including how and where to access confidential sexual and reproductive health advice and treatment.

Sex education at primary level

As previously noted, sex education is not compulsory in primary schools. It is for primary schools to determine whether they need to cover any additional content on sex education to that provided under Relationships Education or as part of the science curriculum.

The guidance states that the Department for Education recommends age-appropriate sex education at primary level, to prepare children for adolescence:

It is important that the transition phase before moving to secondary school supports pupils' ongoing emotional and physical development effectively. The Department continues to recommend therefore that all primary schools should have a sex education programme tailored to the age and the physical and emotional maturity of the pupils. It should ensure that both boys and girls are prepared for the changes that adolescence brings and – drawing on knowledge of the human life cycle set out in the national curriculum for science - how a baby is conceived and born. As well as consulting parents more generally about the school's overall policy, primary schools should consult parents before the final year of primary school about the detailed content of what will be taught. This process should include offering parents support in talking to their children about sex education and how to link this with what is being taught in school. Meeting these objectives will require a graduated, age-

appropriate programme of sex education. Teaching needs to take account of the developmental differences of children.¹⁰

Faith schools

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.¹¹

LGBT issues

The guidance states that schools are free to determine how they address LGBT specific content, but the Department expects “all pupils to have been taught LGBT content at a timely point,” and that:

At the point at which schools consider it appropriate to teach their pupils about LGBT, they should ensure that this content is fully integrated into their programmes of study for this area of the curriculum rather than delivered as a standalone unit or lesson.¹²

Female Genital Mutilation (FGM)

The guidance states that, at secondary level, schools should address the physical and emotional damage caused by female genital mutilation (FGM), make children aware that FGM is against the law, and where they can find support. The guidance further states:

As well as addressing [FGM] in the context of the law, pupils may also need support to recognise when relationships (including family relationships) are unhealthy or abusive (including the unacceptability of neglect, emotional, sexual and physical abuse and violence, including honour-based violence and forced marriage) and strategies to manage this or access support for oneself or others at risk. Schools should also be mindful that for pupils who are or have experienced unhealthy or unsafe relationships at home or socially, the school may have a particularly important role in being a place of consistency and safety where they can easily speak to trusted adults, report problems and find support.¹³

¹⁰ Department for Education, [Relationships Education, Relationships and Sex Education \(RSE\) and Health Education: Statutory guidance for governing bodies, proprietors, head teachers, principals, senior leadership teams, teachers](#), June 2019, p23-24

¹¹ As above, p12-13

¹² As above, p15

¹³ Department for Education, [Relationships Education, Relationships and Sex Education \(RSE\) and Health Education: Statutory guidance for governing bodies, proprietors, head teachers, principals, senior leadership teams, teachers](#), June 2019, p26

Pupils with special educational needs and disabilities (SEND)

Relationships Education, RSE and Health Education must be accessible for all pupils. The guidance notes that these subjects may need to be tailored to the needs of particular pupils with SEND at different stages, and states that

Schools should be aware that some pupils are more vulnerable to exploitation, bullying and other issues due to the nature of their SEND. Relationships Education and RSE can also be particularly important subjects for some pupils; for example those with Social, Emotional and Mental Health needs or learning disabilities. Such factors should be taken into consideration in designing and teaching these subjects.¹⁴

Early adopters and developing support

The Government encouraged schools to adopt the revised guidance from September 2019. The Schools Minister, Nick Gibb, [told the House](#) in response to a Parliamentary Question in January 2020 that the Government planned to use those schools' experiences would inform the support given to schools for the full rollout:

Nick Gibb: The Department is working with over 1600 schools who are acting as early adopters... to develop a programme of support. Recently four national conferences took place to help early adopters plan for delivery of the new subjects, and to learn about their current practices.

This engagement with early adopter schools is helping the Department develop its programme of support for the new subjects, which will be available to all teachers from spring 2020. The programme will focus on tools that improve schools' practice and will offer opportunities for teachers to improve subject knowledge, build confidence and share best practice. This support will be accessed through a new online service and will include an implementation guide, which will accompany the statutory guidance, case studies from early adopter schools, and innovative materials to support staff training. The Department will continue to test this package with early adopter schools.¹⁵

Funding

The DfE originally committed £6 million for training on relationship and sex education in 2019-20, through mechanisms such as the early adopter schools and implementation guide referred to in the Minister's response above.¹⁶

Total expenditure to date stands at £3.2 million, as set out in response to a Parliamentary Question in July 2022:

Will Quince: The expenditure by the department in the package of support to help schools implement the relationships, sex, and health education (RSHE) curriculum is set out as follows: £1.2 million in the 2019/20 financial year, £1.8

¹⁴ As above, p15

¹⁵ [PQ 1333, 17 January 2020](#)

¹⁶ [PQ HL537, 3 February 2020](#)

million in the 2020/21 financial year and £0.2 million in the 2021/22 financial year.

The maximum investment of £6 million, referenced by the former Minister for School Standards in his response dated 1 July 2020, was based on the estimated costs for a package of support.¹⁷

Coronavirus pandemic: postponement of requirements to summer 2021

In July 2020 the Government announced that, owing to the challenging circumstances for schools brought about by the coronavirus pandemic, schools did not have to begin teaching the new subjects immediately if they were unable to do so.

While schools should begin teaching within the first few weeks of the new academic year, where schools were not ready or unable to fulfil the requirements set out in guidance due to the current circumstances, they “should aim to start preparations to deliver the new curriculum as soon as possible and start teaching the new content by at least the start of the summer term 2021.”¹⁸

The legal requirements on schools in place as of 1 September 2020 were unchanged.

Right to withdraw children from sex education

Prior to September 2020, as set out in section 2, parents had the right to withdraw their children from sex education outside of National Curriculum Science.

However, the Department for Education noted in its March 2017 policy statement that clarification was being sought on “the age at which a young person may have the right to make their own decisions,” and that a blanket right for parents to withdraw their child from sex education was no longer consistent with English caselaw (or with the ECHR and UNCRC).¹⁹

The statutory guidance provides that, while under the revised rules head teachers would automatically grant a request to withdraw a pupil from any sex education delivered in primary schools, other than as part of the science curriculum, the current position would alter at secondary level.

At secondary level, parents would be able to *request* that their child be withdrawn from sex education, a request that head teachers would grant in all but exceptional circumstances. This would apply until three terms before a

¹⁷ [PQ 27622, 22 July 2022](#)

¹⁸ Department for Education, [Implementation of relationships education, relationships and sex education and health education 2020 to 2021](#), 9 July 2020

¹⁹ Department for Education, [Policy Statement: Relationships Education, Relationships and Sex Education, and Personal, Social, Health, and Economic Education](#), March 2017

child turned 16, at which point a child would be able to opt-in to sex education if they so choose.

This right to withdraw applies to “sex education delivered as part of statutory RSE” rather than the subject as a whole.

The relevant section of the guidance states:

Parents have the right to request that their child be withdrawn from some or all of sex education delivered as part of statutory RSE. Before granting any such request it would be good practice for the head teacher to discuss the request with parents and, as appropriate, with the child to ensure that their wishes are understood and to clarify the nature and purpose of the curriculum. Schools will want to document this process to ensure a record is kept.

Good practice is also likely to include the head teacher discussing with parents the benefits of receiving this important education and any detrimental effects that withdrawal might have on the child. This could include any social and emotional effects of being excluded, as well as the likelihood of the child hearing their peers’ version of what was said in the classes, rather than what was directly said by the teacher (although the detrimental effects may be mitigated if the parents propose to deliver sex education to their child at home instead).

Once those discussions have taken place, except in exceptional circumstances, the school should respect the parents’ request to withdraw the child, up to and until three terms before the child turns 16. After that point, if the child wishes to receive sex education rather than be withdrawn, the school should make arrangements to provide the child with sex education during one of those terms.²⁰

1.4

Review of RSE guidance

In March 2023, the [Prime Minister announced](#) that the DfE would be conducting a review of RSE statutory guidance, and that he had “asked the Department for Education to ensure that schools are not teaching inappropriate or contested content in relationships, sex and health education.”²¹

This review followed concerns raised in the Commons by Miriam Cates (Con) about “age-inappropriate, extreme, sexualising and inaccurate” material being taught in schools, following an investigation by the [New Social Covenant Unit](#).²²

²⁰ Department for Education, [Relationships Education, Relationships and Sex Education \(RSE\) and Health Education: Statutory guidance for governing bodies, proprietors, head teachers, principals, senior leadership teams, teachers](#), June 2019, p17-18

²¹ [HC Deb 8 March 2023 c298](#)

²² As above, and New Social Covenant Unit, [What is being taught in relationships and sex education in our schools?](#), March 2023

HM Chief Inspector Amanda Spielman said it was “clear that there are materials being used which have no basis in any reputable scientific, biological explanation or any properly grounded understanding of human relationships.”²³

James Bowen, director of policy for the National Association of Head Teachers, said: “It is hard to be anything other than deeply concerned by this announcement... We have seen no evidence to suggest there is a widespread problem with pupils being presented with age-inappropriate materials.”²⁴

1.5 Health education

Statutory Health Education has been introduced alongside the RSE changes.

Guidance on physical health and mental wellbeing education is included as part of the statutory guidance for [Relationships Education, Relationships and Sex Education \(RSE\) and Health Education](#).

More information on health education is provided in the Library briefing on [Personal, Social, Health and Economic Education in schools](#) (England), CBP 7303.

²³ Times, [Some sex education has no basis in science, says Ofsted chief](#), 10 March 2023

²⁴ Guardian, [Sex education review is ‘politically motivated’, say teaching unions](#), 8 March 2023

2 Ofsted review of sexual harassment and abuse in schools and colleges (2021)

In March 2021, the Government asked Ofsted to undertake an [immediate review of safeguarding policies](#) in state and independent schools regarding sexual harassment and abuse.

The review aimed to consider the extent of the problem, the sufficiency of safeguarding guidance, and whether inspection regimes are strong enough. Ofsted was asked to carry out its work with representatives from social care, police, victim support groups, school and college leaders and the Independent Schools Council.²⁵

When publishing its [plans for the review](#) on 7 April 2021, Ofsted said it had been prompted by anonymous testimonials of sexual abuse published on the website [Everyone's Invited](#).²⁶

Evidence of widespread sexual harassment

[Ofsted's review](#) was published in June 2021. The report found evidence of sexual harassment in schools that was “so widespread that it needs addressing for all children and young people,” with 9 in 10 of the girls who spoke to Ofsted saying sexist name calling and being sent unwanted explicit pictures or videos happened ‘a lot’ or ‘sometimes.’ Inspectors also heard that ‘nudes’ were regularly shared by boys on platforms like WhatsApp and Snapchat.²⁷

The report highlighted several important concerns:

- Children often did not see the point of reporting problems because they were seen as normal.
- Teachers consistently underestimated the scale and seriousness of harassment. School leaders did recognise how easy access to pornography contributed to setting unhealthy expectations of sexual relationships and in shaping perceptions of women and girls.
- Relationships and sex education did not include sufficiently clear teaching about what constitutes acceptable behaviour.

²⁵ Department for Education, [Government launches review into sexual abuse in schools](#), 31 March 2021

²⁶ Ofsted, [Ofsted's review of sexual abuse in schools and colleges](#), 7 April 2021

²⁷ Ofsted, [Review of sexual abuse in schools and colleges](#), 10 June 2021

- Many teachers said they did not feel prepared to teach outside their subject specialism, or lacked knowledge on topics like consent, healthy relationships and sharing of sexual images.
- Effective joint working between Local Safeguarding Partnerships and schools and colleges was not always happening consistently.

The review made recommendations to schools and colleges, to government, and for Ofsted itself. Several recommendations related to the teaching of relationships and sex education. This included that for schools and colleges:

- The relationships, sex, and health education (RSHE) curriculum should be carefully sequenced with time allocated for topics that children and young people find difficult, such as consent and sharing explicit images.
- Schools and colleges should provide high-quality training for teachers delivering RSHE.²⁸

Government response

The Parliamentary Under-Secretary of State for Education, Vicky Ford, made a statement in the House of Commons on the day the review was published. She said the Government fully accepted the review's findings. Regarding the curriculum, she said relationships, sex and health education were already compulsory in primary and secondary schools:

the curriculum's focus on healthy relationships helps children to know where to seek help and report abuse and address inappropriate behaviour such as harassment, exploitation, sexism and misogyny. It is the first time that the curriculum has been updated since 2000, and from next term we expect the RSHE curriculum to be implemented in full.

There is more that we are doing. We know that our teachers do not always feel comfortable in teaching about sex and relationships, but it is vital that we get this right. We therefore want to support and work with school leaders and other agencies to help teachers and school staff to deliver the RSHE curriculum as effectively as possible, and I am asking schools to dedicate time from an inset day for that purpose.²⁹

Vicky Ford also highlighted the Online Safety Bill, which she said would include "the strongest measures" to protect children, and to ensure children cannot access harmful services such as online pornography.³⁰

²⁸ Ofsted, [Review of sexual abuse in schools and colleges](#), 10 June 2021

²⁹ [HC Deb 10 June 2021 \[Ofsted Review of Sexual Abuse in Schools and Colleges\]. c1161](#)

³⁰ As above. See also Department for Education, [More support for schools and colleges to tackle sexual abuse](#), 10 June 2021

The Shadow Minister for Schools, Peter Kyle, welcomed the report and the Minister’s statement, but asked “why it has taken so long, and why it took a national scandal to force the Government to act.”³¹

The Library briefings [Regulating Online Harms](#) and [Reaction to the Draft Online Safety Bill: a reading list](#), provide information on the Online Safety Bill.

A separate Library briefing, [Sexual harassment in education](#), discusses the wider findings and recommendations of the Ofsted report.

³¹ [HC Deb 10 June 2021 \[Ofsted Review of Sexual Abuse in Schools and Colleges\].c1163](#)

3 Pre-September 2020: sex and relationships Education

3.1 Overview

All maintained secondary schools were required provide sex and relationships education as part of the basic curriculum, and must meet the requirements of National Curriculum Science. Governing bodies and head teachers of maintained primary schools decided whether sex and relationship education, beyond that set out in National Curriculum Science, should be include in the school's curriculum, and if so what it should consist of and how it should be organised.

The Department for Education (DfE)'s popular questions website provided the following on the position relating to sex and relationship education (SRE) in schools:

Sex and relationship education (SRE) is compulsory from age 11 onwards. It involves teaching children about reproduction, sexuality and sexual health. It doesn't promote early sexual activity or any particular sexual orientation.

Some parts of sex and relationship education are compulsory - these are part of the national curriculum for science. Parents can withdraw their children from all other parts of sex and relationship education if they want.

All schools must have a written policy on sex education, which they must make available to parents for free.

In delivering sex education, schools were required to have regard to the [Sex and Relationship Education Guidance](#), published in 2000.³² The statutory provisions on sex education were contained in sections 403 and 405 of the [Education Act 1996](#) as amended.

The Coalition Government's Education White Paper, *The Importance of Teaching*, published in November 2010, stated:

Children need high-quality sex and relationships education so they can make wise and informed choices. We will work with teachers, parents, faith groups and campaign groups, such as Stonewall to make sure sex and relationships education encompasses an understanding of the ways in which humans love each other and stresses the importance of respecting individual autonomy.³³

³² DfEE, [Sex and relationship education guidance](#), July 2000

³³ DfE, [The Importance of Teaching](#), November 2010, p46

Parents' rights to withdraw a child from SRE

Section 405 of the Education Act 1996 enabled parents to withdraw their children from sex education other than the sex education that is in the National Curriculum (such as the biological aspects of human growth and reproduction that are essential elements of National Curriculum Science).

All schools were required to have an up-to-date policy on SRE which is made available for inspection and to parents. It must include information about parents' right to withdrawal. The SRE guidance stated:

5.7 Parents have the right to withdraw their children from all or part of the sex and relationship education provided at school except for those parts included in the statutory National Curriculum...Schools should make alternative arrangements in such cases. The DfEE will offer schools a standard pack of information for parents who withdraw their children from sex and relationship education.³⁴

3.2 Academies and Free Schools

Academies and Free Schools do not have to follow the National Curriculum and so are not under the same statutory obligations as maintained schools. As such, academies were not obliged to teach sex and relationship education, although if they did, they were required to have regard to the SRE guidance issued by the Secretary of State. This issue was raised in the House of Lords in 2013:

Asked by **Baroness Scotland of Asthal**

To ask Her Majesty's Government what is the current position with regard to ensuring primary and secondary school pupils receive comprehensive sex education. [HL2614]

The Parliamentary Under-Secretary of State for Schools (Lord Nash) (Con): Sex and relationship education (SRE) is compulsory in maintained secondary schools. When teaching sex education, it is a statutory requirement for schools (including academies through their funding agreements) to have regard to the Secretary of State's Sex and Relationship Education Guidance. Schools should use the guidance to build on the content outlined in the national curriculum for science. Primary schools are not required to provide SRE beyond that which is outlined in the national curriculum for science, but many primary schools do so—and they must have regard to the guidance.³⁵

The following exchange and response from Lord Nash, from a Lords debate earlier in that year provides further clarification:

Baroness Brinton: My Lords, I am sure that the House is pleased that the Government have put more about sex and relationships into the curriculum,

³⁴ Department for Education and Employment, [Sex and Relationship Education guidance](#), 2000, p26

³⁵ [HL Deb 21 Oct 2013: Column WA124](#)

but surely some concerns must remain if academies can choose not to teach it. How are the Government going to ensure that academies teach young people about sex and relationships?

Lord Nash: My noble friend is quite right that academies are not obliged to teach sex education, although, if they do, they have to have regard to the Secretary of State's guidance on these matters. I repeat the point that Ofsted inspects for all social, moral and cultural provision in schools, and we will be ensuring that it focuses on this point.³⁶

The [Model Funding Agreement for Free Schools](#) provides an example of the arrangements set up by Academies and Free Schools regarding SRE. It states that:

The Academy Trust shall have regard to any guidance issued by the Secretary of State, further to section 403 of the Education Act 1996, on sex and relationship education to ensure that children at the Academy are protected from inappropriate teaching materials and they learn the nature of marriage and its importance for family life and for bringing up children. The Academy Trust shall also have regard to the requirements set out in section 405 of the Education Act 1996 which shall apply to the Academy as if it were a maintained school.

³⁶ [HL Deb 8 July 2013 c6](#)

4 Pre-2017 reports, inquiries, and proposals for change

The period prior to the 2017 reforms that came into force in September 2020 saw numerous proposals for reforms to relationships and sex education, which are collected here alongside other relevant information.

4.1 POSTnote on relationships and sex Education

In June 2018, the Parliamentary Office of Science and Technology published a [briefing on the impact of RSE](#). The briefing included the following key findings:

- Relationships and sex Education (RSE) can increase knowledge about sexual risk, lead to increased use of contraceptives, and reduce young people's number of sexual partners. Some evidence suggests that it may delay the point at which young people first have sex and decrease rates of teenage pregnancy. However, it is difficult to isolate the effect of RSE programmes on teenage pregnancy rates as studies often examine multiple interventions at the same time.
- There are few high-quality studies on how RSE affects prevalence of sexually transmitted infections (STIs). However, available evidence suggests that RSE does not reduce STI rates among young people.
- Evidence shows that RSE can increase young people's knowledge about, and change attitudes towards, sexual abuse and partner violence. There is less evidence to show that RSE programmes change young people's relationship behaviour.
- RSE's role in improving awareness of the risks of sharing nude images and using pornography has not yet been evaluated.
- RSE is most effective when it is taught by trained professionals in regular sessions, delivers age-appropriate content, is inclusive of different sexual and gender identities, is embedded into school policy, and involves the input of young people and their families.³⁷

³⁷ Parliamentary Office of Science and Technology, [Relationships and Sex Education](#), 25 June 2018, PN 0576

4.2 2008 Review of SRE and the Children, Schools and Families Act 2010

A review of [sex and relationship education in schools](#) took place in 2008. As the webpage for the report states, an external steering group was established to take forward the commitment in the Children's Plan to: 'Review the delivery of Sex and Relationships Education (SRE) in schools'. It summarises how the review was organised, what evidence was considered to inform the decisions, the key challenges that were identified and the recommendations that are being made to improve SRE delivery.³⁸

The report's recommendation that PSHE be made part of the curriculum was part of the Children, Schools and Families Bill, Session 2009-10. The [Library research paper 09/95](#) on the Bill sets out the proposals of the then Labour Government. The PSHE provisions and sex education generally were discussed during the Public Bill Committee – pp 13 and 14 of the [Library research paper 10/12](#) give an account of the debates. However, many of the key provisions of the Bill were removed during the consideration of Lords Amendments on 8 April 2010 immediately before the dissolution of Parliament for the general election. The provisions removed included the introduction of compulsory PSHE, and the provision that all children receive at least one year of sex and relationship education. Incidentally, the provisions in the Bill that did survive are now contained in the [Children, Schools and Families Act 2010](#).

4.3 Ofsted report on PSHE and the teaching of SRE (2013)

In May 2013, Ofsted published a report on [PSHE in primary and secondary schools in England](#).³⁹ The report raised concerns about the teaching of SRE:

Sex and relationships education required improvement in over a third of schools. In primary schools this was because too much emphasis was placed on friendships and relationships, leaving pupils ill-prepared for physical and emotional changes during puberty, which many begin to experience before they reach secondary school. In secondary schools it was because too much emphasis was placed on 'the mechanics' of reproduction and too little on relationships, sexuality, the influence of pornography on students' understanding of healthy sexual relationships, dealing with emotions and staying safe.⁴⁰

³⁸ External Steering Group, [Review of Sex and Relationship Education \(SRE\) in Schools A report by the External Steering Group](#), 2008

³⁹ Ofsted, [Not yet good enough: personal, social, health and economic education in schools](#), May 2013

⁴⁰ Ofsted, [Not yet good enough: personal, social, health and economic education in schools](#), May 2013, p6-7

4.4

Proposals for compulsory SRE and to update Sex and Relationship Education Guidance (2013-16)

Amendment to Children and Families Bill (2013)

During Report Stage of the *Children and Families Bill* in the House of Commons in June 2013,⁴¹ an amendment (New Clause 20) was tabled by Lisa Nandy, Sharon Hodgson, Stella Creasy, Diana Johnson and Caroline Lucas, to ensure that sex and relationship education be made available to all children across the country. Speaking to the new clause, Lisa Nandy said that:

Research by the Children’s Commissioner has found that far too many young people—boys and girls—do not know what a good relationship looks like. Worryingly, it also found that many of them did not even understand the concept of consent. Our view is that we are failing to equip young people with the knowledge, skills and resilience they need to keep themselves safe. We must do much more to tackle child abuse, but more importantly we must prevent it from happening in the first place.

Young people are increasingly exposed to risks online. We think that the question is not whether we can afford to talk to them about issues as difficult as this, but whether we can afford not to. We think that all children should have the opportunity to access age-appropriate sex and relationship education. In a departmental report on personal, social, health and economic education, young people said that they valued the chance to express views safely and ask questions, and felt that that had improved their relationship with others. We believe that parents should retain the right to withdraw children aged 15 or under because they know their children best, but equally we know that the vast majority of parents would like their children to have access to sex and relationship education. For children whose parents do not talk to them about these issues, this could be critical in keeping them safe, especially given that a third of girls say that they have experienced unwanted touching. We are keen for the Government to support our proposed new clause 20.⁴²

Responding for the then Government, Edward Timpson said that

On personal, social and health education, we all recognise that this is an important issue, but we do not have unanimity on what constitutes the best approach. The expectation that all schools should teach PSHE is outlined in the introduction to the framework of the proposed new national curriculum. It is not a statutory requirement, however, as we strongly believe that teachers need the flexibility to use their professional judgment to decide when and how best to provide PSHE in their local circumstances. The Government do not believe that the right of parents to withdraw their children from sex and relationship education should be diminished in the way proposed. We see no need to amend the existing legislation, which provides a clear and workable model for schools and parents. Moreover, the new provision would place a

⁴¹ Now the Children and Families Act 2014.

⁴² [HC Deb 11 June 2013, col 255](#)

disproportionate burden on teachers, who would have to make and defend decisions on what constitutes “sufficient maturity” —⁴³

New clause 20 was defeated on a division by 303 votes to 219.⁴⁴ An amendment to the Bill to require a review and update of SRE guidance was also been tabled during the Bill’s Report Stage in the House of Lords.⁴⁵

Calls for updated guidance

In September 2013, there were calls reported in the press from several MPs, including the then Deputy Prime Minister, Nick Clegg, for the SRE statutory guidance to be updated. The guidance has been in place since 2000 and the calls for it to be updated focused on the rise of the internet and social media since that time. See:

- [More Conservative MPs back Telegraph better sex education campaign](#), Telegraph, 4 September 2013
- [Update sex education guidance to schools, says Clegg](#), BBC News Online, 5 September 2013
- [Dame Tessa Jowell supports The Telegraph's Wonder Women better sex education campaign](#), Telegraph, 6 September 2013

There were also calls in December 2013 for NICE to develop [modernised sex education programmes](#) that encompassed the role of sex in a loving relationship.⁴⁶

Private Member’s Bills and other parliamentary activity

During an adjournment [debate](#) on 14 October 2014, Caroline Lucas raised the issue of updating the existing SRE guidance. The Minister, Nick Gibb, responded:

The hon. Lady said that the guidance on sex and relationships education is becoming outdated. I welcome the supplementary advice for schools, “[Sex and relationships education \(SRE\) for the 21st century](#)”, which was published recently by the PSHE Association, the Sex Education Forum and Brook. The advice helpfully addresses the changes in technology and legislation since 2000, and equips teachers to help protect children and young people from inappropriate online content and online bullying, harassment and exploitation.⁴⁷

⁴³ [HC Deb 11 June 2013, col 267](#)

⁴⁴ As above, c270

⁴⁵ House of Lords, [Amendments tabled to the Children and Families Bill](#) [accessed 12 December 2013]

⁴⁶ British Medical Journal, [Experts call for NICE to resume work on sex education halted by the coalition government](#), 3 December 2013

⁴⁷ [HC Deb 14 Oct 2014 c280](#)

In October 2014, Diana Johnson presented the [Sex and Relationships Education \(Curriculum\) Bill 2014-15](#), to include SRE in the National Curriculum. The full Bill was not published and did not receive a Second Reading.

In July 2016, Caroline Lucas presented the [Personal, Social, Health and Economic Education \(Statutory Requirement\) Bill 2016-17](#), in favour of statutory PSHE including SRE and education on ending violence against women and girls, and to provide for initial and continuing teacher education and guidance on best practice for delivering and inspecting PSHE and SRE education.

Caroline Lucas also presented bills in favour of compulsory PSHE during both the 2014-15 and 2015-16 parliamentary sessions, neither of which received a second reading.

4.5 Education Committee Inquiry (2014-15)

The House of Commons Education Select Committee launched an inquiry into PSHE and also SRE in schools on 23 April 2014. The [call for evidence](#) requested views on the following topics:

- Whether PSHE ought to be statutory, either as part of the National Curriculum or through some other means of entitlement.
- Whether the current accountability system is sufficient to ensure that schools focus on PSHE.
- The overall provision of sex and relationships education in schools and the quality of its teaching, including in primary schools and academies.
- Whether recent Government steps to supplement the guidance on teaching about sex and relationships, including consent, abuse between teenagers and cyber-bullying, are adequate.
- How the effectiveness of SRE should be measured.

The Committee published its report, [Life lessons: PSHE and SRE in schools](#), on 17 February 2015. The report made the following key recommendations relating to SRE:

- The Department for Education should develop a work plan for introducing age-appropriate PSHE and SRE as statutory subjects in primary and secondary schools.
- All schools should be required to run a regular consultation with parents on the school's SRE provision.
- The parental right to withdraw their child from elements of SRE should be retained.

- The Government should formally endorse and issue the SRE guidance produced by Brook, the Sex Education Forum and the PSHE Association. It should also promote this more actively to schools and governors.
- SRE should be renamed relationships and sex Education – RSE – to emphasise the relationships element of the subject.⁴⁸

The [Government response](#) to the report was published in July 2015. In particular:

- The Government did not indicate that it would make PSHE or SRE statutory, although it intended to make “significant progress” in improving PSHE during this Parliament, and would “consider in full” the arguments put forward by the Select Committee as part of this work before reporting back later in 2015.
- The Government said there was a “range of good quality advice that has been developed by the voluntary sector in relation to PSHE and SRE”, and that it would continue to work with the sector to review the advice and guidance that currently exists.
- The Government did not believe it necessary to change the “well understood” label of SRE.⁴⁹

The Chair of the new Education Committee, Neil Carmichael, was [critical](#) of the response:

Ministers entirely sidestep the call made by MPs in the closing months of the last Parliament to give statutory status to PSHE.

They also reject or brush over nearly every other recommendation made by the previous Education Committee in their key report published five months ago.⁵⁰

Letter from select committee Chairs (January 2016)

In January 2016, the Chairs of four Commons select committees – education, health, home affairs and business, innovation and skills – [wrote](#) to the Education Secretary, citing committee reports and statements from the Children’s Commissioner and the Chief Medical Officer, in support of statutory PSHE and SRE.

⁴⁸ House of Commons Education Select Committee, [All schools should have to provide PSHE and SRE](#), 17 February 2015

⁴⁹ Department for Education, [Government response: Life lessons: PSHE and SRE in schools](#), Cm 9121, July 2015

⁵⁰ House of Commons Education Select Committee, [Government response to sex education report is “feeble”](#), 16 July 2015

The letter stated that it was “clear to the four of us that there is a need to work towards PSHE and SRE becoming statutory in all schools.”⁵¹

The Chair of the Women and Equalities Committee, Maria Miller, was also quoted in a Times [article](#) in support of compulsory SRE.⁵²

4.6 Government decision not to make PSHE statutory (February 2016)

In February 2016, the then Education Secretary Nicky Morgan [wrote](#) to the Education Committee Chair to state that PSHE would not be made statutory:

The vast majority of schools already make provision for PSHE and while the Government agrees that making PSHE statutory would give it equal status with other subjects, the Government is concerned that this would do little to tackle the most pressing problems with the subject, which are to do with the variable quality of its provision, as evidenced by Ofsted’s finding that 40% of PSHE teaching is less than good. As such, while we will continue to keep the status of PSHE in the curriculum under review, our immediate focus will be on improving the quality of PSHE teaching in our schools.⁵³

The letter also stated that the DfE would be working with a group of leading headteachers and practitioners in the following months to produce an action plan and recommendations for improving PSHE, including publishing a comprehensive PSHE toolkit for schools.

Subsequent Government comment and reconsideration

In September 2016, the newly appointed Education Secretary, Justine Greening, [indicated to the Education Committee](#) that she was open to reconsidering the position of PSHE and SRE.⁵⁴

A subsequent [response to a Parliamentary Question](#) by the Education Minister Edward Timpson confirmed:

As the Secretary of State said at the Education Select Committee hearing in September 2016, we need to look again at how schools deliver high quality PSHE including SRE. We are considering all the options and will come to a view soon.⁵⁵

During the [Second Reading debate](#) in the Commons on the Children and Social Work Bill [HL] in December 2016, the Minister indicated that he had

⁵¹ Education Committee, [Letter from Neil Carmichael MP, Dr Sarah Wollaston MP, Rt Hon Keith Vaz MP, and Iain Wright MP, to Rt Hon Nicky Morgan MP](#), 8 January 2016

⁵² Times, [Schools hit by sexting epidemic](#), 12 March 2016

⁵³ Education Committee, [Letter from Rt Hon Nicky Morgan MP to Neil Carmichael MP](#), 10 February 2016

⁵⁴ Education Committee, [Role and Responsibilities of the Secretary of State for Education](#), 14 September 2016, HC 196

⁵⁵ [PQ 47734, 18 October 2016](#)

asked officials to “accelerate” their work on PSHE and SRE, so that he could report on the Department’s conclusions at a later point during the passage of the Bill.⁵⁶

4.7 Labour commitment to statutory PSHE

In March 2016, the then Shadow Education Secretary, Lucy Powell, in an article prompted by concerns about sexting in schools, [announced](#) that making PSHE statutory in all state schools would be “one of the first things Labour does in government” and stated that:

Improving [PSHE’s] status would help reverse the downward trend in lesson quality. It would ensure there was a broad and balanced framework of standards, with up-to-date guidance that reflects the world we live in. Alongside this, we want a new generation of PSHE leaders in every school, sharing best practice.⁵⁷

4.8 Women and Equalities Committee inquiry into sexual harassment and sexual violence in schools (2016)

On 19 April 2016, the Commons Women and Equalities Select Committee launched an [inquiry](#) into sexual harassment and sexual violence in schools.

This inquiry focused on:

- establishing the scale of sexual harassment and sexual violence in primary and secondary schools in the UK
- understanding the impact of sexual harassment and sexual violence on pupils and teachers
- making practical recommendations to reduce the levels of sexual harassment and sexual violence in schools

As part of its inquiry, the Committee [asked](#) for comments on the strength of the Government’s evidence on the current, non-statutory status of PSHE and its work in this area, to inform its questions to Ministers in evidence on 12 July 2016.⁵⁸

⁵⁶ [HC Deb 5 Dec 2016 c84](#)

⁵⁷ Times, [Labour will ensure children are taught the dangers of sexting](#), 22 March 2016

⁵⁸ Women and Equalities Committee, [Personal, Social, Health and Economic education and the curriculum](#), 5 July 2016

The [Committee's report](#) was published in September 2016. It recommended that that PSHE and SRE should be made statutory subjects as part of the Education Bill then planned for autumn 2016. ⁵⁹ (That Bill was subsequently dropped.)

The [Government's response](#), published in November 2016, did not include a commitment to make either PSHE or SRE statutory. The Government stated that it would consider improvements to the teaching of both subjects:

...we will look at how what is taught in PSHE and SRE can fit into a whole school approach and reflected in codes of practice. We are conscious that the existing SRE guidance was last updated in 2000 and the case for further action on PSHE and SRE delivery is actively under review, with particular consideration to improving quality and accessibility.⁶⁰

The Committee Chair, Maria Miller, was [critical](#) of the response, and in particular the lack of a commitment to statutory SRE:

In particular the Government needs to prioritise action to ensure Sex and Relationship education reflects the realities of the 21st century rather than the pre-smartphone age when guidance was last updated.⁶¹

New letter from select committee Chairs (November 2016)

Following the Government's response to the Women and Equalities Committee report, [five select committee Chairs wrote to the Education Secretary](#), to express disappointment at the lack of an announcement of statutory PSHE, and urged the Government either to support a current Private Member's Bill for statutory PSHE (see section 3.4) or bring forward proposals of its own.⁶²

The five Chairs were Neil Carmichael (Education Committee), Maria Miller (Women and Equalities), Yvette Cooper (Home Affairs), Dr Sarah Wollaston (Health), and Iain Wright (Business, Energy and Industrial Strategy).

⁵⁹ Women and Equalities Committee, [Sexual harassment and sexual violence in schools](#), Third Report session 2016-17, HC 91 para 151

⁶⁰ Women and Equalities Committee, [Sexual harassment and sexual violence in schools: Government response to the Committee's Third Report of Session 2016-17](#), First special report of 2016-17, para 56

⁶¹ Women and Equalities Committee, [New law needed to protect children from sexual harassment and violence](#), 29 November 2016

⁶² Education Committee, [Letter from Neil Carmichael MP and others to Rt Hon Justine Greening MP](#), 29 November 2016

5 Reforms to Independent School Standards; Teaching about same-sex marriage

5.1 Background

During the passage of the 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.⁶³

The Equalities and Human Rights Commission has published a guidance document, [The Marriage \(Same Sex Couples\) Act 2013: The Equality and Human Rights Implications for the Provision of School Education](#). This was updated in June 2014, and states that schools are not required to *promote* same-sex marriage:

Teaching about marriage must be done in a sensitive, reasonable, respectful and balanced way. Teachers are subject to professional requirements, the school curriculum, school policies, and anti-discrimination duties towards colleagues and pupils.

No school, or individual teacher, is under a duty to support, promote or endorse marriage of same sex couples. Teaching should be based on facts and should enable pupils to develop an understanding of how the law applies to different relationships. Teachers must have regard to statutory guidance on sex and relationship education, and to meet duties under equality and human rights law.

⁶³ [HC Deb 10 December 2012, c 31](#)

Subject to the above, nothing in the Act affects the rights of schools with a religious character to continue to teach about marriage according to their religious doctrines or ethos. Any views expressed about marriage of same sex couples, by governors, teachers, other school staff, parents and pupils, may reflect the religious ethos of the school.

Governors, teachers and non-teaching staff in schools, parents and pupils, are free to hold their own religious or philosophical beliefs about marriage of same sex couples. These rights are not limited by anything in the Act, education law, or equality and human rights law.

Pre-existing parental opt-out rights in respect of sex and relationship education remain unaffected by the Act.⁶⁴

5.2 Reforms to the independent school standards regulations

The Coalition Government made reforms to the regulatory framework for free schools, academies, and independent schools. Some campaign groups, including the Coalition for Marriage, interpreted the reforms as meaning that schools would be required to actively promote same-sex marriage.

During July and August 2014, the then Government consulted on making changes to the Education (Independent School Standards) Regulations 2010 (SI 2010/1997), as amended. The [consultation document](#) explained the intention behind the planned changes (which are part of wider reforms):

The proposed changes to Part 2 [of Schedule 1 to the 2010 Regulations] are aimed at making it clear to independent schools that the proprietor must actively promote the fundamental British values that are set out in section 1.1(c) above and that schools must actively promote the specified principles, including furthering tolerance and harmony between different cultural traditions and encouraging respect for democracy. A minimum approach, for example putting up posters on a notice board and organising an occasional visit to places of worship would fall short of ‘actively promoting’. Schools will be expected to focus on, and be able to show how their work with pupils is effective in embedding fundamental British values. ‘Actively promote’ also means challenging pupils, staff or parents expressing opinions contrary to fundamental British values.

The new requirement for schools to actively promote principles which encourage respect for persons with protected characteristics (as set out in the Equality Act 2010) is intended to allow the Secretary of State to take regulatory action in various situations: for example where girls are disadvantaged on the grounds of their gender; failure to address homophobia; or where prejudice against those of other faiths is encouraged or not adequately challenged by the school.

⁶⁴ EHRC, [The Marriage \(Same Sex Couples\) Act 2013: The Equality and Human Rights Implications for the Provision of School Education](#), Pg 2-3

We intend to update and reissue the current guidance on this standard to reflect these changes.⁶⁵

Subsequently, the then Government laid amending regulations – the [Education \(Independent School Standards\) \(England\) \(Amendment\) Regulations 2014](#) (SI 2014/2374), which came into force on 29 September 2014. The [Explanatory Memorandum](#) to the amending regulations addresses some of the concerns that were raised during the consultation period:

8.1 The proposed changes made by these Regulations were subject to a six-week consultation from 23 June to 4 August. This resulted in 1462 responses. Of these 909 were in support of a campaign that claimed the effect of the changes would be, amongst other things, to: introduce new values; extend the equality agenda; discriminate against Christianity; and undermine religious freedoms. This is not correct. The fundamental British values are not new. They were defined in the government's 2011 Prevent Strategy and have been part of the Independent School Standards since the beginning of 2013.

8.2 In relation to equality legislation, the proposals are that schools should encourage pupils to respect other people, even if they do not agree with them. This does not extend equality requirements or discriminate against Christianity or religious freedoms. The amended standard would not require a school to do anything that they are not currently required to do by the Equality Act 2010 (which applies to independent schools).

8.3 Of the remaining responses there were 516 on whether the changes to the SMSC [spiritual, moral, social and cultural] standard are required to ensure the active promotion of fundamental British values and respect for other people. A significant number of respondents indicated that they disagreed with the proposed changes, but analysis of the related comments revealed that this was because of misunderstanding the effect or raising issues that were not part of the consultation. For example, some responses questioned the definition of the fundamental British values and requested that this be opened up for further debate; others maintained that the changes extend the equality agenda and will result in the marginalisation of Christianity; and others considered that the changes are not necessary, that the standards were only amended in January 2013, and that many schools are already doing this.

8.4 The Department has not made any changes to the proposed revision to the SMSC standard as a result of the consultation.⁶⁶

Neither the consultation document nor the Explanatory Memorandum to the amending regulations specifically mention the teaching of same-sex marriage.

A [legal advice note](#) on the regulations prepared by John Bowers QC for the Christian Institute, and published on the Institute's website argues in its conclusion:

a. It is a small step to elide the respect for a person required by the amended Regulations to respecting the beliefs of the group to which that person

⁶⁵ DfE, [Proposed New Independent School Standards](#), 23 June 2014, Pps. 6-7

⁶⁶ [Explanatory Memorandum to the Education \(Independent School Standards\) \(England\) \(Amendment\) Regulations 2014](#), SI 2014/2374, Pp 2-3

belongs, and in effect to become a requirement to promote the protected characteristics themselves.

b. There is a danger with these proposals that the curriculum in independent school becomes politicized because respect for some protected characteristics may be highly contentious; in effect the seal on the curriculum (created by section 89(2) of the Equality Act 2010) will be thereby broken. To mix the metaphor, a Rubicon preserved by successive governments will be crossed.

c. The danger of litigation is exacerbated by the vagueness in the proposals arising from the concept of active promotion.

41. The inevitable result is to open teachers up to increased scrutiny, pressures and complaints. There is a real risk of major litigation over what happens in the classroom. Further the contents may undermine their academic freedom.⁶⁷

An [Impact Assessment](#) on the regulations was subsequently published by the then Government in December 2014.⁶⁸

5.3 Independent school standards guidance

In 2018 the Department for Education ran a [consultation](#) asking for views on:

- Draft advice for schools on the independent school standards
- A policy statement on regulatory and enforcement action taken by the Department for independent schools not meeting those standards
- Revised regulations governing the information required of independent schools, and those wishing to register such schools

The [consultation document](#) stated that the aim of the consultation was to provide advice for schools across the independent school standards, which currently only exists in part.

The [Government response to the consultation](#) was published in April 2019.⁶⁹

The [Independent school standards: guidance for independent schools](#) published after the consultation set out the following on the teaching of PSHE, including same-sex marriage:

2.15 [...] The standard will not be met if, for example, the PSHE curriculum:

⁶⁷ Christian Institute website download, [Advice on the effect of proposed new independent school standards](#), published 3 October 2014, Pp 17-18.

⁶⁸ Final Stage IA. [The Education \(Independent School Standards\) \(England\) \(Amendment\) Regulations 2014 and the Education \(Independent School Standards\) Regulations 2014](#)

⁶⁹ Department for Education, [Operating the independent school regulatory system: government response](#), April 2019

- a) encourages pupils to see those of particular races or religions as being inferior in any way
- b) suggests to male pupils that women and girls should be treated with less respect than males or that a woman's role is subservient to that of a man - or vice versa
- c) were to facilitate debate on same-sex marriage, but teaches pupils that the parties to such a marriage do not merit the protection which the legal status of marriage or civil partnership affords in law - although teaching that the faith position of the school is that marriage is only between a man and a woman is acceptable
- d) teaches that disabled people deserve less equal treatment, for example because of sins they are said to have committed in previous lives
- e) encourages pupils to believe that women who are pregnant without being married should be punished or not respected. Teaching that the faith position of the school is that sexual activity involving members of that faith should be kept within the bounds of marriage is acceptable.

2.16 A school can teach that its particular faith has teachings relevant to these matters, and explain to pupils what those teachings are. However, this does not mean that a curriculum, including that for religious education, can be planned or teaching provided which advocates or otherwise encourages pupils not to respect other people on the basis of a protected characteristic⁷⁰


⁷⁰ Department for Education, [The independent school standards: advice for independent schools](#), April 2019, p10-11

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