

## Welsh smacking ban: Children's minister cannot rule out parents being prosecuted

The Welsh Government is consulting on its controversial proposals to make it a criminal offence for parents to smack a naughty child. Although supporters of the proposed legislation invariably deny that it would make smacking a criminal offence and try to play down the consequences, the Children's Minister in Wales has admitted that the legislation, if passed, has the potential to lead to parents being prosecuted. Asked on *BBC Breakfast* whether parents would be prosecuted for smacking their children, Huw Irranca-Davies, the minister responsible for this area of policy, responded: 'We hope not, but you can't rule it out.'

In the consultation paper itself, the Welsh Government anticipates that criminalising parents who smack would lead to an increase in prosecutions, at least in the short-term:

*It is expected that there may be an initial increase in the numbers of cases being brought to the courts proportionate to the initial increase in numbers of incidents being reported to the police following a change in law. It is also expected, however, that this short term increase would decline in the longer term as attitudes to corporal punishment continued to change.*

### Patronising

The Ministerial Foreword is patronising in tone, repeatedly asserting what 'we know' about bringing up children and the negative effects of physical punishment. The document then proceeds to employ emotive language combined with a one-

sided treatment of the research evidence to support the Welsh Government's position. Respondents are not asked whether or not they support a ban on smacking; they are rather asked whether the proposal will help the Welsh Government achieve its stated aim of 'protecting children's rights'.

The consultation paper equates 'positive parenting' with 'authoritative parenting' and proceeds on the assumption that moderate smacking is incompatible with a 'responsive, warm and nurturing' approach to bringing up children. However, Professor Diana Baumrind, who originated the term 'authoritative parenting' has drawn no such conclusion. Rather, she has consistently maintained that the research evidence does not warrant a blanket injunction against the use of moderate physical correction.

The document repeatedly refers to the 'anomaly whereby children have less protection with regard to physical punishment than adults'. Yet the Welsh Government might equally have said that children have less protection than adults with regard to time-out, withdrawal of privileges or any other disciplinary sanction. Unless we completely deny the unique relationship that parents sustain towards their children and disavow any parental responsibility for discipline and correction, such 'anomalies' between parents and children must of necessity remain.

In its zeal to be considered 'progressive', 'modern' and 'forward thinking', the Welsh Government seems to be pursuing an ill-advised form of egalitarianism that fails to differentiate between the roles and responsibilities of parents and children.

### URGENT!

**Let the government know what you think children should – and should not – be taught about sex and relationships in school**

See our special feature on pages 3-6 inside.

**Closing date: 12 February.**

### Lack of logic

There is a distinct lack of logic in the Welsh Government's position at a number of points. For example, having reviewed the 'evidence and the case for change', the consultation document makes a significant admission:

*It is acknowledged that there is unlikely to be any research evidence which specifically shows the effects of a light and infrequent smack as being harmful to children.*

One might have hoped that this acknowledgement would give the Welsh Government pause for thought before ploughing ahead with legislation which, on its own admission, might put parents in the dock.

If the Welsh Government really doesn't want to criminalise parents for a mild smack, why legislate? Cruel, abusive and unreasonable treatment of children is already against the law. All that the proposed legislation would achieve is increased state interference in the homes of ordinary loving families where there is not the slightest evidence of any harm at all.

• **Welsh Government, *Legislative Proposal To Remove The Defence Of Reasonable Punishment*, January 2018.** <https://tinyurl.com/y7on4fl9>

**Closing date for responses: 2 April.** Family Education Trust is part of the **Be Reasonable Wales** campaign.

**A guide to responding to the consultation will be mailed to supporters in Wales in due course.**



**Huw Irranca-Davies**

# Equality and Human Rights Commission prepares transgender guidance for schools

The Equality and Human Rights Commission (EHRC) is preparing new guidance for schools on how to support pupils who identify as transgender or are questioning their gender.

EHRC chair David Isaac commented:

*We should be pleased that children feel increasingly more comfortable talking about their gender identity – but we need to get better at dealing with it.*

*On a daily basis, transgender and gender-questioning children all over the country are being failed by the system; rigid views about what it means to be male or female and a lack of understanding of how to respond to gender identity issues place an enormous burden on children, and are resulting in isolation, discrimination, prejudice and bullying.*

*This has led to an unprecedented amount of self-harm and suicide attempts which must end now. If we want a fairer Britain we need to start addressing this rising issue, for the sake of our next generation.*

According to the EHRC, the guidance will address ‘different gender definitions, effective safeguarding, tackling bullying, appropriate language, uniforms, pronoun and name change, toilets and changing rooms, sports classes, parental concerns, and single sex admissions’.<sup>1</sup>

## Gender confusion in Girlguiding

Meanwhile, Girlguiding has already produced an equality and diversity policy devoted to gender reassignment. The organisation, which describes itself as ‘the leading charity for girls and young women in the UK’, aims to offer ‘support for all children and young people who self-identify as a girl or young woman and for adults who self-identify as a woman’. ‘Gender identity’ is regarded as ‘a person’s inner sense of self’, regardless of biological considerations.

The policy states that: ‘If a child or young person self-identifies as a girl or young woman then they are able to join any of our youth sections appropriate to their age.’ Similarly, ‘If an adult self-identifies as a woman then they are able to undertake all adult roles in guiding and may, if they wish, make their Promise.’<sup>2</sup> So a biological boy may now become a guide, and a biological man may become a leader.

Girlguiding came under fire towards the end of 2017 over its guidance to ‘help support our trans members to attend residential events’. This additional guidance tells guide leaders that biological males who now identify as girls may share accommodation, toilets and chang-

ing facilities with girls when away on residential trips, and that parents should not be informed.

It is acknowledged that some people (both girls and biological males who identify as female) may not feel comfortable about this and that alternative provision should be made in such cases. Nevertheless, the default position is that: ‘young trans members should be able to share accommodation with other young members if they wish’ and ‘members are entitled to use the [toilet and changing] facilities of the gender that they self-identify as’.

The guidance adds that ‘a person does not have to disclose [to the group leaders] if they are trans’ and leaders are informed that, ‘It is not a requirement - or best practice - to tell parents that a trans person will be attending a residential event.’<sup>3</sup>

## Notes

1. Equality and Human Rights Commission, ‘Transgender children failed by the system, warns equality Chair’, 5 November 2017.
2. Girlguiding, *Equality and Diversity policy: Transgender and gender reassignment*.
3. Girlguiding, *Supporting trans members: What you should consider to support trans people within Girlguiding*.

## 2-year-olds being targeted with gender ideology

An organisation offering ‘a fun and inclusive reading time for local schools, libraries, and hospitals’ has been desensitising children as young as two and three in taxpayer-funded nursery schools.

Drag Queen Story Time aims to ‘capture the imagination and fun of the gender fluidity of childhood, while giving children a glamorous, positive, and unabashedly queer role model. By providing spaces in which kids are able to see people who defy rigid gender restrictions, we allow them to imagine the world in which people can present as they wish.’

June O’Sullivan, chief executive of the London Early Years Foundation supported the exposure of very young children to men who dress as women, because ‘children are very open until about three. [But] at three they begin to absorb all the “isms” that adults have developed very effectively.’

Family Education Trust director, Norman Wells, commented:

*One of the most disturbing things about the transgender agenda is the way that it tries to distort our perception of reality and deny something as fundamental as the distinction between male and female.*

*To try to blind impressionable children of two and three to one of the most basic facts of human existence can only be described as a form of child abuse.*

*We are already seeing a substantial rise in the number of children who identify as transgender, largely due to the sympathetic and positive treatment of the issue on children’s TV. Such confusion is only likely to increase if we start playing with children’s minds in nurseries and schools.*

● **Mail on Sunday, 12 November 2017.**

## ‘Transgender ideology in schools is psychological abuse’

**‘If I walk into my doctor’s office today and say, “Hi, I’m Margaret Thatcher,” my physician will say I am delusional and give me an anti-psychotic. Yet, if instead, I walked in and said, “I’m a man,” he would say, “Congratulations, you’re transgender.”**

‘If I were to say, “Doc, I am suicidal because I’m an amputee trapped in a normal body, please cut off my leg,” I will be diagnosed with body identity integrity disorder. But if I walk into that doctor’s office and say, “I am a man, sign me up for a double mastectomy,” my physician will. See, if you want to cut off a leg or an arm you’re mentally ill, but if you want to cut off healthy breasts or a penis, you’re transgender...’

‘To indoctrinate all children from preschool forward with the lie that they could be trapped in the wrong body disrupts the very foundation of a child’s reality testing. If they can’t trust the reality of their physical bodies, who or what can they trust? Transgender ideology in schools is psychological abuse that often leads to chemical castration, sterilization, and surgical mutilation.’

● **Michelle Cretella, ‘I’m a Pediatrician. Here’s what I did when a little boy patient said he was a girl’, *The Daily Signal*, 11 December 2017.**

*Dr Cretella is president of the American College of Pediatricians, a national organization of pediatricians and other health care professionals dedicated to the health and well-being of children.*

# Your opportunity to let the government know what you think children should – and should not – be taught about sex and relationships in school

*A guide to responding to the DfE's call for evidence*

The Department for Education (DfE) is currently consulting on what should be included in the curriculum for primary school Relationships Education (ReEd) and secondary school Relationships and Sex Education (RSE) when the subjects become statutory in England from September 2019.

The eight-week consultation was launched on 19 December 2017, just before the Christmas and New Year holiday period, and is due to conclude on 12 February 2018.

The exercise is intended to inform the Department's formulation of its regulations and statutory guidance for ReEd and RSE. The DfE is also considering whether to make Personal, Social, Health and Economic Education (PSHE) mandatory in all schools and so includes questions on PSHE as well.

In its introduction, the consultation document states:

*As is already the case where sex education is currently mandatory, schools will also have flexibility over how they teach these subjects so that they can ensure their approach is sensitive to the needs of their pupils and, in the case of faith schools, in accordance with the tenets of their faith. The subjects must be age-appropriate and schools will engage with parents on their approach. Parents will have a right to withdraw their child from sex education in RSE in secondary school. If a primary school chooses to teach sex education, parents will be able to withdraw their child.*

Flexibility and sensitivity to the needs of pupils, freedom for faith schools to teach in line with the tenets of their faith, age-appropriateness, engagement with parents, and a parental right of withdrawal from sex education – it all sounds very reassuring. However, all that glitters is not gold, and the small print demonstrates that there is no room for complacency. In fact, at several points it gives rise to serious concern.

## Flexibility and sensitivity to pupils' needs

While it is doubtless the case that schools will be free to select the resources that they consider most appropriate in their own context, there will inevitably be a degree of central prescription. If that were not the case, there would be no need for the DfE to produce regulations and guidance; schools could simply be told they were obliged to teach ReEd/SRE and left to get on with it.

The Department states:

*We will ensure that new subjects are carefully designed to safeguard and support pupils and are deliverable for schools.*

This reference to ReEd and SRE being 'carefully designed' suggests that there will be no room for negotiation in terms of at least some aspects of curriculum content. While schools will have 'flexibility over how they teach these subjects' (methodology) there will inevitably be less flexibility in terms of what is taught.

The consultation document explains that the Department will also be seeking to gain:

*a better understanding of what constitutes good practice in considering all types of diversity, and to gather examples of this. This could include, but is not limited to, areas such as: special educational needs and disability, lesbian, gay, bisexual and trans, faith etc.*

This raises the possibility that schools may be required to teach about LGBT lifestyles. That is certainly the expectation of LGBT lobby groups such as Stonewall. The consultation paper includes a comment from its chief executive, Ruth Hunt, who states:

*This is a huge step forward and a fantastic opportunity to improve inclusion and acceptance in education.*

## Freedom for faith schools

While we welcome the DfE's intention that faith schools should be free to teach ReEd and RSE 'according to the tenets of their faith', it is difficult not to foresee potential conflicts between a school's faith position and what the Department and Ofsted regard as 'good practice in considering all types of diversity'.

It is one thing for a faith school to be required to inform pupils that legislation in England, Wales and Scotland makes provision for marriages between people of the same sex, but quite another for it to be required to celebrate such marriages and equate them with the lifelong union of a man and woman.



***Following his recent appointment as Education Secretary, ultimate responsibility for the future direction of ReEd, RSE and PSHE will rest with Damian Hinds.***

In response to a parliamentary question asking what steps the government is taking to ensure that 'LGBT issues are taught well' in English schools, and at what age groups such lessons will be aimed, the education minister Lord Agnew stated:

*Schools are bound by the Equality Act 2010, including the Public Sector Equality Duty 2011, to ensure that teaching is accessible to all children and young people, including those who are lesbian, gay, bisexual and transgender.<sup>1</sup>*

The leading LGBT rights campaigner, Peter Tatchell, has argued:

*Given that most religions do not accept same-sex relationships, it is hard to see how the government can square the right of faith schools to teach RSE according to the tenets of their faith while also conforming to the requirements of the Equality Act. What will happen when there is a conflict between the two?<sup>2</sup>*

It remains an open question as to whether the government's stated intention that faith schools will be able to teach ReEd and SRE 'in accordance with the tenets of their faith' will extend to teaching pupils that sexual relationships outside the context of a marriage between a man and a woman are morally wrong.

The consultation document states that one of the primary reasons for making ReEd and RSE statutory was in order to ensure that young people receive the support they need 'to make the right decisions and keep themselves safe and happy' in an increasingly complex and digital world.

But what does the Department mean by 'right decisions'? Does it mean 'right decisions' as defined by the moral absolutes espoused by many faith schools? Or



does it mean decisions that are ‘right for me’, measured by the shifting sands of relativism? Where the moral absolutes held by a faith school come into conflict with what the DfE and Ofsted consider ‘good practice in considering all types of diversity’ which will take precedence? On such points of contention, it remains to be seen whether faith schools will in fact remain free to teach RelEd and RSE ‘according to the tenets of their faith’.

### Age-appropriate

The consultation paper quotes Internet Matters, an organisation backed by the UK’s most prominent internet industry players with the aim of helping to keep children safe in a digital world. The organisation comments:

*It is vital that children are taught about the issues they face going online at the earliest possible age. Our recent research revealed how six-year-olds today are as digitally advanced as 10-year-olds were three years ago, which reflects the pace at which young people are taking up technology.* (emphasis added)

It is not difficult to envisage how such classroom discussions could result in introducing to the minds of very young children concepts, ideas and behaviours far removed from their experience.

Everyone would agree that RelEd and RSE should be age-appropriate. No one would argue otherwise. But what does ‘age-appropriate’ look like? It is a somewhat slippery concept capable of wide interpretation. According to Mary Bousted, joint general secretary of the National Education Union, primary school RelEd should be ‘LGBT+ inclusive’,<sup>3</sup> and, to the dismay of parents, prominent sex education campaigners consider it ‘age-appropriate’ to show primary school pupils graphic animations of sexual intercourse.

Simply stating that something is ‘age-appropriate’ does not make it so. It is therefore incumbent on the DfE to define precisely what it means by ‘age-appropriate’ - something that it has not attempted hitherto.

### Engagement with parents

The DfE consultation document promises that ‘schools will engage with parents on their approach’ to SRE, and in a short preamble to one of the seven consultation questions, it states:

*We are also interested in understanding more about how schools communicate with parents on Relationships Education and RSE and are able to make informed decisions that best meet the needs of their children.*

So far, so good. However, ‘engagement’ and ‘communication’ do not necessarily

amount to the same thing as consultation, and in the body of the consultation document, the DfE remarks:

*Schools will be required to publish a policy on sex education, and to communicate with parents on this subject, to enable parents to decide whether or not to withdraw their child.*

This suggests that the ‘communication’ in view may amount to little more than *informing* parents about decisions already made so that they can decide whether or not to exercise their right of withdrawal.

The current statutory guidance contains over 90 references to parents and the importance of consultation with parents, taking into account their wishes and showing sensitivity towards their concerns. However, the present consultation paper is more reminiscent of the ‘supplementary advice’ produced by Brook, the PSHE Association and the Sex Education Forum in 2014 and endorsed by the DfE.<sup>4</sup>

Although the supplementary advice maintains that ‘high quality SRE’ is ‘a partnership between home and school’, it places more emphasis on actively seeking the views of children and young people to influence lesson planning and teaching than it does on consultation with parents. In fact, it chooses to state that parents and carers ‘can’ be invited to see the resources that the school has selected’, rather than take the more positive line that schools ‘should’ invite parents to review their sex education resources.

### The parental right of withdrawal

At first glance it is heartening to read in the consultation paper that:

*Parents will have a right to withdraw their child from sex education in RSE in secondary school. If a primary school chooses to teach sex education, parents will be able to withdraw their child.*

However, again the body of the document provides less comfort. While it upholds the principle that ‘parents should have the right to teach sex education themselves in a way which is consistent with their values’, it does not extend the same privilege to the teaching of RelEd in primary schools.

In response to a parliamentary question asking for a parental right of withdrawal from RelEd, the Schools Minister responded that it had been decided that there should be no such right, ‘because the subject will cover topics all children should know’. He added that the provision of the Children and Social Work Act 2017 did not grant to the Secretary of State the legal power to include within the regulations a right for parents to withdraw their children from RelEd.<sup>5</sup>

Yet it is not at all clear where the line will be drawn between *relationships* education and *sex* education. This gives rise to concern that LGBT issues and all manner of alternative lifestyles might easily be incorporated within the RelEd curriculum, with parents denied the right to withdraw their children.

Meanwhile, the right of parents to withdraw children from RSE in secondary school appears categorical at first glance, but again the small print tells a different story. Later in the consultation document, the DfE states:

*As we set out in our Policy Statement in March 2017, we will need to include in the regulations the age at which a young person will have the right to make their own decisions. This is because English case law has moved on since the current right to withdraw was put in place and we must now allow young people, once they have reached an age at which they are mature enough to be competent, to make decisions on their education for themselves.*

It seems clear that the government is planning to limit the right of parents to withdraw their children from RSE in secondary school in some way, most likely by transferring the right of withdrawal to the child at a certain age, as yet unspecified.

### Conclusion

Comforting as the introduction to the consultation paper appears at first glance, we cannot afford to be complacent. At the heart of the present exercise are the perennial questions: Who is responsible for determining what children need to learn about sex and relationships: parents or the state? What is RelEd and what is RSE, and what are they seeking to achieve? And whose morality should be taught?

● **DfE, *Changes to the teaching of Sex and Relationship Education and PSHE: A call for evidence, December 2017.***  
<https://tinyurl.com/yc333nk7>

### Notes

1. HL, written answer to parliamentary question HL3243, answered on 28.11.17.
2. Peter Tatchell Foundation, ‘Education Department clarifies new sex education rules’, 13.12.17.
3. Freddie Whittaker, ‘Teachers weigh in on the new sex education curriculum’, Schools Week, 19.12.17.
4. Brook, PSHE Association, Sex Education Forum, *Sex and Relationships Education (SRE) for the 21<sup>st</sup> Century*, 2014.
5. HC, written answer to parliamentary question 111583, answered on 17.11.17.

# Responding to the consultation

- The DfE has raised seven questions for consultation. You may respond to as many or as few of the questions as you wish.
- Please note that you are limited to **no more than 250 words** for each question you respond to.
- The following notes under each question are intended to suggest points that you may wish to make, but please respond in your own words.
- Questions 1, 2, 5 and 6 ask what are **the three most important subject areas** that should be taught. Subject to space, you may also wish to include some subject areas that it is important that children are NOT taught in RelEd, RSE and PSHE.

## 1. Thinking about relationships education in primary schools, what do you believe are the three most important subject areas that should be taught for different age groups/key stages and why. Please include any considerations or evidence which informed your choices.

- The importance of committed, loving parents for a healthy childhood.
- The mutual responsibilities of parents and children: the responsibility of parents to provide a home, food, clothing, education, security for their children, and the responsibility of children to respect and obey their parents.
- How fathers and mothers complement each other by relating to their children in different ways.
- The place of the extended family – the contribution that grandparents, uncles, aunts and cousins can make to a stable family life.
- The fact that marriage is associated with a higher degree of stability than other living arrangements, and that stable families in turn contribute to a healthy, cohesive and harmonious society.
- The importance of choosing friends carefully, and valuing the qualities of unselfishness, kindness, politeness, honesty and reliability.
- There are a number of topics that it would not be age-appropriate to address in primary school lessons: e.g. LGBT issues and relationships, pornography, contraception, sexually transmitted infections etc.

*Although it is beyond the remit of the present call for evidence, you may wish to express concern that parents are being denied the right to withdraw their children from Relationships Education in primary schools.*

## 2. Thinking about relationships and sex education in secondary schools, what do you believe are the three most important subject areas that should be taught for different age groups/key stages and why. Please include any considerations or evidence which informed your choices.

- The distinction between lust and sexual desire on the one hand and true love on the other. Love runs deeper than feelings and involves commitment, faithfulness and perseverance.
- Rather than be taught about the mechanics of sex and contraception, young people need to be encouraged to develop the qualities they will need in order to build a strong and lasting marriage in later life: e.g. stability, honesty, faithfulness and commitment.
- Schools should be encouraged to establish a counter-cultural ethos in which sexual intimacy is considered and referred to with modesty, respect and restraint. RSE policies should ensure that the accent is placed on sexual activity as an expression of love.
- How history demonstrates the importance of marriage, defined as the lifelong union of one man and one woman, for the nurture of children, and the richness of care provided by the complementarity of care provided by a father and mother.
- The fact that marriage is associated with a much greater degree of stability than cohabitation and other living arrangements.
- The positive reasons for saving sexual intimacy for marriage: it is the surest safeguard against sexually transmitted infections and emotional harm, it provides the most stable context in which to bring children into the world, and leads to a more trusting marriage. Research demonstrates that most parents stay together if they married before having children.
- The reality that sexual promiscuity is a major contributor to family breakdown and divorce. Therefore it is important to exercise self-restraint in relation to sexual desire.
- An approach to RSE that emphasises sexual pleasure and ‘informed choices’ is unlikely to discourage and reduce the incidence of sexual harassment and violence. The focus needs to be turned away from self-gratification to self-giving in the context of a lifelong marriage.
- A strong emphasis on the age of consent and a firm rejection of the idea that sex under 16 can be a legitimate choice for young teenagers.
- The limited effectiveness of barrier contraception as a means of providing protection against the transmission of STIs and the reality that outside of a committed, mutually faithful, lifelong relationship with an uninfected partner, there is no such thing as ‘safe sex’.
- In making RSE accessible to pupils who identify as LGBT, the health risks associated with such lifestyles should be explored.

## 3. Are there important aspects of ensuring safe online relationships that would not otherwise be covered in wider Relationships Education and Relationships and Sex Education, or as part of the computing curriculum?

*Apart from warning primary school children about the danger of communicating with strangers online, no matter how friendly they may appear, it would not be age-appropriate to address the subjects of sexting, online grooming and pornography in a class setting. If it becomes apparent that any pupils are involved in such online activity, the issue can be addressed with the pupil and his/her parents privately. We therefore suggest that responses to this question should be limited to RSE in secondary schools.*

- As with younger children, secondary school pupils should also be warned about the dangers of communicating with strangers online.
- Sexual intimacy should be presented as something special, private and that belongs in marriage. In this context, pupils can be helped to view sexting as something that should not be engaged in or tolerated. In no way should sexting be presented as harmless and appropriate when engaged in by children in a ‘consensual relationship’.
- The Sex Education Forum’s view that pornography is not ‘all bad’ and that young people need help in ‘interpreting’ it should be rejected.
- In a classroom setting, the subject of pornography should be treated with sensitivity and restraint, and should be set within a firm moral framework. For some pupils exposure to pornographic images, or an unrestrained discussion of such images, would run the risk of arousing an unhealthy curiosity to search out pornography for themselves.
- The approach adopted by the Lovewise resource *Pornography: dangers and decisions* is to be commended. Aimed at pupils in Years 9-11, it is marked by modesty and restraint. It clearly explains the dangers of pornography, offers practical advice on how to avoid it, and urges young people to seek help if it has already become a problem to them.

**4. How should schools effectively consult parents so they can make informed decisions that meet the needs of their child, including on the right to withdraw? For example, how often, on what issues and by what means?**

- In view of the particular sensitivities aroused by RSE, it is important that schools should be required to consult with parents and be sensitive to parental wishes and concerns.
- Schools should remain obliged to publish their RSE policy on the school website and make printed copies available upon request. The policy and resources used should be reviewed by the school no less frequently than every three years. All parents should be notified of the review and invited to make their views known both on the *policy* (the general approach) and on *implementation* (syllabus and materials).
- Schools should be required to allow parents to view the resources used in RSE lessons upon request.
- At the beginning of each academic year, schools should be required to notify parents of what they propose to teach in RSE for their child's year group. Parents should be invited to a meeting at the school where a presentation of the material will be given, and further opportunity provided for parents to view the materials used in greater detail. At every point, the school should clearly communicate that parents are entitled to withdraw their children from RSE lessons if they wish to do so.
- Parents should retain the right to withdraw their children from sex education lessons for as long as they bear the legal responsibility for their children's education. This legal right is in line with the fundamental principle of education law that pupils should be educated in accordance with the wishes of their parents, and that due respect should be paid to the religious and philosophical convictions of parents.
- Given the absence of any evidence that children who are withdrawn from sex education lessons are more likely to engage in sexual harassment and sexual violence or placed at greater risk of teenage pregnancy and sexually transmitted infections, there is no compelling reason to remove or limit the parental right of withdrawal.

**5. Thinking about PSHE in primary schools, what do you believe are the three most important subject areas that should be taught and why? Please include your reasons for choosing each subject area or evidence to support your suggestions.**

*At present, all schools are encouraged to teach Personal, Social, Health and Economic education (PSHE), but it is not a compulsory subject in state-funded schools. However, the Children and Social Work Act 2017 provides a power for the Secretary of State to make PSHE, or elements of the subject, mandatory in all schools. The DfE is therefore including two questions about PSHE as part of the present consultation as it considers whether to make it compulsory alongside ReEd and RSE.*

- Most of the components of PSHE are the primary responsibility of parents; for example, nutrition and physical activity, drugs, alcohol and tobacco education, sex and relationships education, emotional health and well-being, safety, and personal finance. We are therefore not convinced that it should be made a compulsory part of the school curriculum.
- The more that schools take to themselves responsibility for these areas, the less parents will be inclined to view them as their responsibility. If PSHE were to become a statutory part of the curriculum, parents might no more consider themselves responsible for these aspects of their children's physical, emotional and social development than they typically regard themselves as responsible for the teaching of English, maths, history and science.
- If the government is serious about encouraging parents to take more, and not less, responsibility for their children, the state, through its schools and other agencies, needs to take care not to undermine them by assuming a parental role.

**6. Thinking about PSHE in secondary schools, what do you believe are the three most important subject areas that should be taught and why? Please also include your reasons for choosing each subject or evidence to support your suggestions.**

*You may wish to make some of the same points in relation to PSHE in secondary schools that you made in response to Question 5 in relation to primary schools, possibly adding that, at the discretion of the governing body in consultation with parents, pupils may benefit from lessons covering some or all of the topics suggested below.*

- There may be scope for encouraging secondary schools to teach pupils basic First Aid, and to warn against the dangers of drugs and the irresponsible use of alcohol, though we are not persuaded that these topics should be made compulsory.

**7. How much flexibility do you think schools should have to meet the needs of individual pupils and to reflect the diversity of local communities and wider society in the content of PSHE lessons in schools?**

- If schools are to engage in meaningful consultation with parents, it is vital that curriculum content is not tightly prescribed. Schools must be left free to respond to parental concerns and sensitivities without being constrained by detailed curriculum requirements.
- If faith schools are to be free to teach according to the tenets of their faith, the regulations and statutory guidance must not insist that schools teach that all lifestyles are equally valid. Also, members of the school community (staff, pupils, parents, and governors) who hold to a faith position, *whether in a faith school or not*, should be able to voice their views without fear of disciplinary action.
- Schools should not be required to teach that gender is fluid or that same-sex marriage is morally equivalent to marriage between a man and a woman. Similarly, schools should be free to teach in line with the tenets on their faith on matters such as sexual abstinence before marriage, contraception and abortion.

**How to respond**

Responses should be submitted online at:

<https://consult.education.gov.uk/life-skills/pshe-rse-call-for-evidence/>

However, if you are unable to use the online survey, the DfE is able to receive responses by email at:

[PSHE-RSE.consultation@education.gov.uk](mailto:PSHE-RSE.consultation@education.gov.uk)

or by post at: RSE & PSHE Team, Department for Education,  
Sanctuary Buildings, 2nd Floor, Great Smith Street, London SW1P 3BT

**Please note that the call for evidence closes at 11.59pm on 12 February 2018.**

# Home Education: Government not persuaded that new legislation is required

**The government has rejected calls for intrusive legislation which would give local authority officials the power to visit the homes of children educated at home to monitor their ‘educational, physical and emotional development’.**

Speaking at the conclusion of a two-hour debate, Lord Agnew of Oulton, the Parliamentary Under-Secretary of State for Education, reasserted the government’s view that local authorities ‘already have the tools for the job’ of taking appropriate action where it appears that parents are failing in their duty to provide their child with a suitable education.

He also signalled the intention of the Department for Education to publish a draft of revised guidance documents on elective home education for local authorities and for parents, and to consult on them.

Lord Agnew stated: ‘I reassure parents who educate children at home. We know many of them do this for positive reasons and they do it well. We want that to continue with a minimum of fuss and bureaucracy.’

However, in response to concerns expressed earlier in the debate about some parents withdrawing their children to avoid prosecution for poor school attendance or to prevent their child being excluded (sometimes on the advice of the school itself), the Minister added that:

*[I]t also appears increasingly likely that there are parents who are not doing this for positive reasons, may do it only because they see no alternative and would prefer not to be doing it for their children. It is time that we looked to their needs as well.*

Of the 12 contributors to the second reading debate, all but one spoke in support of Lord Soley’s Home Education (Duty of Local Authorities) Bill. In a complete reversal of the well-established legal principle that responsibility for the education of children rests with parents and not with the state, the Crossbench peer Baroness Deech remarked: ‘If I had my way, school education would be compulsory unless parents could prove that they had good reason to avoid it.’

## Note of caution

Not all peers were equally dismissive of home education, however. While she supported the general principles of the Bill, the former Education Secretary, Baroness Morris of Yardley, injected a note of caution. She noted:

*[W]hile the state is very good at inspecting within a very regulated framework, it is less good at exercising judgment and discretion where people are not absolutely following that framework and regulation but are nevertheless doing a decent job.*

Lady Morris urged the House to ‘tread warily’, lest it ‘damage some good provision’. She was anxious to be sensitive to the needs of parents and suggested that the law needed to accommodate ‘innovation and quirkiness’.

## Probing questions

It fell to the Conservative peer, Lord Lucas, to raise some probing questions about the evidential basis for the Bill. He observed that the data was lacking ‘even to identify whether overall we have a problem’ and made a plea for more evi-

ence. He further questioned whether the state is equipped to sit in judgment on parents: ‘I believe that, by and large, the state does not make better decisions than parents about children. Even if the state knew everything, it still would not make better decisions.’

Lord Lucas argued that those who home educate on principle should not be required to conform to a methodology which may be necessary for the smooth running of a school, but which is unnecessary in a home education setting. He expressed concern that Parliament should ‘not seek to regulate away’ the freedom of home educators to do things that cannot be done in schools and concluded that a Bill that concentrated on support would be preferable to one that focussed on ‘extensive supervision’ and punishment.

● **Home Education (Duty of Local Authorities) Bill [HL], House of Lords Second Reading Debate, 24 November 2017.**

## Increasing levels of childlessness behind declining UK fertility rate

**Figures released by ONS in November 2017 reveal that the average number of children per woman of childbearing age in England and Wales has continued to decline.** According to the statistics, women born in 1971 had on average 1.9 children, the lowest level on record. ONS reports that, ‘Average completed family size peaked at 2.42 children for women born in 1935 and has been falling since.’

Emily Knipe of the Population Statistics Division at ONS stated that the high proportion of women remaining childless was one of the main factors behind the declining fertility rate. The figures reveal that 18 per cent of women born in 1971 were childless at the age of 45, compared with only nine per cent of women born in 1946.<sup>1</sup>

An international league table released by the OECD (Organisation for Economic Co-operation and Development) two years ago suggested that the level of childlessness in the UK is among the highest in the developed world.<sup>2</sup>

## Negative images

Family Education Trust director, Norman Wells, told the *Daily Mail*:

*There are doubtless a number of reasons why some couples are choosing not to have children, including economic pressures, the suppression of traditional roles within the family, a lowering of the status of motherhood and the fact that children are seen as a threat to maintaining a high standard of living.*

*But another factor may be that so much sex education has placed such a strong emphasis on how to avoid pregnancy, that it has frequently presented a very negative image of childbearing and of motherhood.*

*The contraceptive culture can all too easily blind us to the joy that the birth of a child can bring to the parents and to their wider circle of family and friends.<sup>3</sup>*

## Notes

1. ONS, *Childbearing for women born in different years, England and Wales: 2016*, 24 November 2017. (ONS does not make any distinction between voluntary and involuntary childlessness.)
2. OECD Family Database.
3. Daniel Martin, ‘Generation childless: Britain is nearly top of the world table for women over 40 who haven’t had children’, *Daily Mail*, 2 January 2018.



# New government guidance on child-on-child sexual abuse flawed by endorsement of Brook traffic light tool

The Department for Education (DfE) has published advice for schools on how to prevent and respond to reports of sexual violence and sexual harassment between children.<sup>1</sup>

The advice comes amid mounting concern about the growing incidence of child-on-child sexual abuse. According to figures obtained by the BBC from 38 out of 43 police forces in England and Wales, the past four years have seen a 71 per cent increase in sexual abuse inflicted on children by other children. The statistics reveal a rise in reports of such offences from 4,603 in 2013-2014 to 7,866 in 2016-2017.<sup>2</sup>

However, the new guidance is flawed by its endorsement of the Brook sexual behaviours traffic light tool as a resource to help schools when considering harmful sexual behaviours. The Brook resource is intended to show professionals working with children and young people 'which behaviours are a natural part of growing up and exploring sexuality, and which are problematic and may need intervention or support'. The stated aim is to provide 'a standardised normative list' to create 'a unified approach to protecting children and young people'.

## 'Positive feedback'

Yet, according to the tool, sex involving 13-17 year-olds should be viewed in a favourable light, provided it is consensual and 'between children or young people of similar age or developmental ability'. The green light is accordingly given to:

*consenting oral and/or penetrative sex with others of the same or opposite gender who are of similar age and developmental ability.*

This is deemed 'reflective of natural curiosity, experimentation, consensual activities and positive choices'. Brook adds: 'Green behaviours provide opportunities to give positive feedback and additional information.'

Other 'green behaviours' considered worthy of 'positive feedback' to 13-17 year-olds include 'solitary masturbation',

'sexually explicit conversations with peers' and 'interest in erotica/pornography', all of which are placed on the same level as 'choosing not to be sexually active'.

## Risk of condoning sexual abuse

This relaxed attitude towards sexual activity between children can all too easily blind teachers and other school staff to cases of exploitation and abuse. The serious case reviews of episodes of child sexual exploitation demonstrate over and over again how professionals can become oblivious to abuse in a climate in which underage sex is viewed as a normal part of growing up. As Norman Wells has noted in the Family Education Trust report, *Unprotected*:

*In giving 'positive feedback' to underage sexual relationships deemed to be con-*

*sensual, professionals may inadvertently be condoning and promoting sexual exploitation and abuse.*<sup>3</sup>

The DfE has undertaken to keep the advice under review, particularly as it develops its approach to Relationships and Sex Education (RSE) and Personal Social Health and Economic (PSHE) education.

A public consultation running from 14 December 2017 until 22 February 2018 is inviting comments on both the new advice on sexual violence and sexual harassment, and on changes to the statutory guidance, *Keeping children safe in education* (KCSIE).<sup>4</sup>

## Notes

1. Department for Education, *Sexual violence and sexual harassment between children in schools and colleges: Advice for governing bodies, proprietors, headteachers, principals, senior leadership teams and designated safeguarding leads*, December 2017.

2. BBC1, Panorama, 'When Kids Abuse Kids', 9 October 2017.

3. Norman Wells, *Unprotected*, Family Education Trust, 2017, p.123. Copies are available from the office priced at £7.50 + £1.50p&p.

4. Department for Education, *Keeping children safe in education: proposed revisions*, December 2017. <https://tinyurl.com/y7j3ojo7>

## AGM & conference – Saturday 9 June 2018

The 2018 Annual General Meeting and conference will take place at the Royal Air Force Club, 128 Piccadilly, London W1 on Saturday 9 June. Please note the date in your diary and plan to join us if you are able.

The speakers are due to be Dr Patrick Fagan, director of the Marriage and Religion Research Institute (MARRI) in Washington DC., and Dr Olwyn Mark from Love for Life in Northern Ireland.

Dr Fagan will be sharing some of the fruits of his research and drawing some lessons for family policy in the UK, while Dr Mark will be exploring the moral complexities surrounding statutory Relationships and Sex Education. Her PhD thesis has recently been published by Peter Lang under the title of *Educating for Virtue*.

**Further details will be provided in the next issue of the bulletin.**

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