



Relationships and Sex Education and the law in England

From September 2020, the Department for Education (DfE) is introducing mandatory Relationships Education for primary school pupils and Relationships and Sex Education (RSE) for secondary school pupils. Due to the coronavirus and closures, schools that are not in a position to implement fully from September now have [until Summer term 2021](#) to do so. As soon as a school starts to deliver the curriculum, the guidance will apply.

The DfE '[Relationships Education, Relationships and Sex Education, and Health Education](#)' guidance is classed as statutory guidance from the Department for Education, which means that schools must follow it unless they can show good reason not to.

SSA UK support the provision of high-quality, fact-based Relationships and Sex Education. This factsheet is intended to help parents and carers ensure that Relationships Education provided by their children's schools is factual, evidence-based and does not unreasonably go beyond what is required in law.

WHO DOES THIS GUIDANCE APPLY TO?

It only applies to schools in England.

The new subjects of Relationships Education and RSE must be taught in all maintained schools, academies and independent schools. This includes pupil referral units, maintained special schools, special academies, and non-maintained special schools.

All schools, except independent schools, must also teach Health Education to both Primary and Secondary pupils.

WHICH SUBJECTS MUST NOW BE TAUGHT?

PRIMARY

Primary age children will be taught Relationships Education and Health Education. There is no right of withdrawal as it will be a statutory subject, which means it forms part of the curriculum that schools have to teach.

Relationships Education has to cover: families and people who care for me; caring friendships; respectful relationships; online relationships; being safe.

Primary schools can also choose to teach Sex Education. They must define any sex education they choose to teach (other than the biological aspects of human growth and reproduction, which is covered in the science curriculum), and parents have an automatic right to withdraw their child from this.

SECONDARY

Secondary age children will be taught Relationships and Sex Education and Health Education. There is no right to withdraw from the Relationships element of this (or from Health Education).

Parents can request that their child is withdrawn from some or all of the Sex Education. The school should discuss this with the parents and '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.'

Sex and Relationships Education has to cover: families; respectful relationships including friendships; online and media; being safe; intimate and sexual relationships, including sexual health.

WHAT DO PARENTS NEED TO KNOW?

CONSULTATION WITH PARENTS

The DfE guidance says that:

- All schools must have in place an up-to-date written policy for Relationships Education and RSE.
- Schools must consult parents in developing and reviewing their policy.
- Schools must provide a copy of the policy free of charge to anyone who asks for one and should publish the policy on the school website
- Schools should provide examples of the resources that they plan to use.

THIRD-PARTY PROVIDERS

Some schools invite external organisations in to deliver training on Relationships Education.

The guidance says that this can be a positive choice. However:

- Schools must check the visitor or visiting organisation's credentials. (For example, what knowledge do they have of safeguarding, of education settings, or of the legal frameworks within which schools must operate?)
- Schools should also ensure that the teaching delivered by the visitor fits with their planned programme **and their published policy**.
- Schools must discuss the detail of how the visitor will deliver their sessions.
- Schools should ask to see the materials visitors will use as well as a lesson plan in advance
- Use of visitors should be to enhance teaching by an appropriate member of the teaching staff, **rather than as a replacement for teaching by those staff**.

Schools must take responsibility for what is being taught by external providers and include this in their policy, which they should have already discussed with parents.

LESBIAN, GAY, BISEXUAL AND TRANSGENDER (LGB AND T) CONTENT

SSA UK support age-appropriate teaching about the lives, experiences and rights of lesbian, gay, and bisexual people, and people who have the protected category of gender reassignment.

Many parents are concerned that the 'T' element of this teaching will go further than this, and teach transgender ideology, e.g. that it is possible to be born in the wrong body, as fact.

It is common for young people to feel uncomfortable with their changing body during puberty; it may be particularly difficult for autistic young people, lesbian and gay young people, or those who have experienced sexual harassment or sexual assault.

Any young person who feels they don't fit the expectations that society has of their sex should be given the tools to understand that the problem lies with society and not with their body or their sexual orientation.

The guidance says that:

- Schools should ensure that LGB and T content is taught 'at a timely point'. All teaching should be 'sensitive and age appropriate' in approach and content.
- Schools should ensure that LGB and T content is integrated into this part of the curriculum, rather than delivered as a standalone lesson. Schools can decide how they do this.
- 'Schools must ensure that they comply with the relevant provisions of the Equality Act 2010, under which sexual orientation and gender reassignment are amongst the protected characteristics.' (see 'Relevant Legal Frameworks' below)
- At secondary level 'Pupils should be taught the facts and the law about sex, sexuality, sexual health and gender identity in an age-appropriate and inclusive way... Sexual orientation and gender identity should be explored at a timely point and in a clear, sensitive and respectful manner. When teaching about these topics, it must be recognised that young people may be discovering or understanding their sexual orientation or gender identity.'

It is unfortunately not made clear in the guidance which laws apply to 'gender identity': this is not a protected characteristic under the Equality Act, or a concept that has ever been defined in law.

The guidance notes elsewhere that 'teachers should take care to **avoid giving instructions or methods of self-harm or suicide and avoid using emotive language**'. This can also be considered to apply to use of suicide statistics in discussions about transgender identity.

SEXISM AND HOMOPHOBIA

SSA UK believe it is important that any lesson content relating to 'gender identity' should not contradict the school's teaching on sexist stereotypes (e.g. that girls don't have to like shopping and make-up), sexual harassment and assault (e.g. the importance of single-sex spaces and affirming boundaries), and on same-sex attraction.

Sex and sexual orientation are both protected characteristics under the Equality Act 2010, and the guidance gives some weight to tackling issues relating to sexism:

- 'Schools should be alive to issues such as everyday sexism, misogyny, homophobia and gender stereotypes and take positive action to build a culture where these are not tolerated.'
- 'Schools should be aware of the importance of making clear that sexual violence and sexual harassment are not acceptable, will never be tolerated and are not an inevitable part of growing up.'
- 'Staff should be aware that statistically it is more likely that females will be the victims of sexual violence and sexual harassment than males, and that it is more likely that it will be perpetrated by males... It is, however, essential that assumptions are not made about the behaviour of boys and young men and that they are not made to feel that this behaviour is an inevitable part of being male.'

RELEVANT LEGAL FRAMEWORKS

Equality Act 2010, Section 149: Public Sector Equality Duty requires schools to 'advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it', and to 'foster good relations between persons who share a relevant protected characteristic and persons who do not share it'.

The 9 protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

Education Act 1996, section 9 states that local authorities are under a statutory duty to have regard to the general principle that **pupils are to be educated 'in accordance with the wishes of their parents'**.

Education Act 1996, section 407 requires local authorities and schools to take steps "to ensure that where political issues are brought to the attention of pupils...they are offered a **balanced presentation of opposing views**".

European Convention on Human Rights, Article 2 (Right to Education) of the First Protocol states that "In the exercise of any functions which it assumes in relation to education and to teaching, **the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions**". (The UK is still signed up to the ECHR)

The European Court of Human Rights has emphasised that "**The state is forbidden to pursue an aim of indoctrination** that might be considered as not respecting parents' religious and philosophical convictions".¹

¹ See [Lautsi v Italy](#) (2012), at paragraph 62.