

LGA Response to DfE consultation on Relationships Education, Relationships and Sex Education and Health Education draft regulations and statutory guidance

6 November 2018



About the Local Government Association

1. The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government.
2. We are a politically-led, cross-party organisation which works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

Key messages

3. The draft regulations need to clearly spell out which schools the regulations apply to, so that all schools with a duty on them can fulfil it. The regulations will be read by a broad audience and would benefit from an explanatory note.
4. We are disappointed that the proposed content does adequately address mental health and wellbeing issues or reflect parity of esteem between mental and physical health. It also does not take into account the Government's wider reforms for CYP Mental health provision. This needs to be addressed.
5. We recommend that domestic abuse is given a higher profile in RE, RSE and Financial education to reflect the Government's plans in the forthcoming Domestic Abuse Bill.
6. Parents have a right to request that their child be withdrawn from some or all of sex education. The guidance should be strengthened and training and support offered to teachers and head teachers to enable them to deal with this request and support parents who wish to deliver sex education to their child at home.
7. Personal Social Health and Economic Education (PSHE) has proven benefits to mental and physical health, online and offline safety and in preparing CYP for life and work. Many pupils miss out on these benefits because it does not have statutory status. For RE, HE and RSE to have full impact PSHE must be given statutory status in all schools and parents must be given the same rights to withdraw their child.

LGA Response

8. The LGA supports the Government's decision to make RE at primary and RSE at secondary compulsory in all schools and HE compulsory in all state-funded

Submission

schools, however we would like to see HE made compulsory in all schools. Councils are already working with schools, children, young people (CYP) and parents to provide high-quality PSHE, RE and SRE in their schools and to tailor provision to support local public health, safeguarding and educational objectives.

9. Our response to this [consultation](#) is arranged under four main headings:
 - 9.1. Relationships Education, Relationship and Sex Education, Financial Education and Parents right to withdraw their child from sex education
 - 9.2. Physical health and wellbeing
 - 9.3. Engaging with parents and wider communities and delivery
 - 9.4. Statutory guidance, draft regulations and regulatory impact assessment

1. Relationships Education, Relationship and Sex Education, Financial Education and Parents right to withdraw their child from sex education

Relationships Education (RE)

10. The draft statutory guidance does not specify what age teaching of RE will commence, we recommend this is clarified in the final guidance. We are concerned about the gaps in the curriculum's content which could result in children not having the knowledge or skills they need to have positive relationships or to prepare for their future. In particular we are concerned about the lack of focus in the following areas in the draft statutory guidance:
11. **Promoting good transitions:** the proposed content does not clearly set out how primary aged children will be prepared to successfully deal with the transition from primary to secondary school. The start of secondary school may bring increased worry and anxiety. It can also signal the end/start of friendships which may be confusing for some children. Children may also feel daunted by the prospect of attending a new school in a potentially larger and unfamiliar environment and may struggle with the new responsibilities secondary school brings. It is therefore essential children are prepared for these challenges and are taught the skills needed to help them build their resilience. This will set them in good stead for future life changes and setbacks. It is also unclear how RE content will seamlessly move into RSE content without clarification in the final guidance this could lead to duplication or a disjointed approach.
12. **Promoting good mental health and wellbeing:** Research shows that 10 per cent of children and young people (aged 5-16 years) have a clinically diagnosable mental problem, yet 70 per cent of children and adolescents who experience mental health problems have not had appropriate interventions at a sufficiently early age¹. We are therefore concerned that the draft content:
 - 12.1 Does not provide primary school children with the knowledge and skills they need to remain mentally healthy, improve their wellbeing, self-esteem, self-worth and build resilience.
 - 12.2 Lacks a focus on how to deal with more difficult emotions like anger which could be the result of difficulties experienced at home or with friends. Issues with anger can lead to risky behaviour, refusing to go to school,

¹ <https://www.mentalhealth.org.uk/statistics/mental-health-statistics-children-and-young-people>

isolation, eating problems, depression, and self-harm and need to be addressed early.

- 12.3 This demonstrates a lack of join up with the Dfe and Department for Health and Social Care (DHSC) plans to implement their Green Paper 'Transforming CYP's mental health Provision'², which has a clear onus on schools and incentives for them to prioritise and deliver emotional wellbeing and mental health support for their pupils as well as making Health Education (HE) compulsory by 2020.
- 12.4 It is not clear how schools will be held accountable for delivering their new responsibilities. The new curriculums for RE, RSE, HE and PSHE are an opportunity for assurance to be provided through the inclusion of mental health content. Each curriculum needs to reflect the emotional social learning interventions that have been evidenced to be effective.
13. **Domestic abuse and other types of abuse:** The proposed guidance refers to different types of abuse, but it does not explicitly refer to domestic abuse. We recommend that it includes domestic abuse and reflects the Government's forthcoming Bill on Domestic Abuse. DfE will need to take into account any legislative changes on domestic abuse and ensure they are clearly reflected in RE teaching.
14. Primary school age is an important teachable moment and we support the Children's Commissioner call for RE to address county lines exploitation³.
15. We are supportive of issues on domestic abuse, wider forms of abuse for example but not limited to Female Genital Mutilation and grooming to be addressed as part of RE at primary school in the same manner that it is to be taught at secondary school in the RSE curriculum i.e. "Grooming, sexual exploitation and domestic abuse, including coercive and controlling behaviour, should also be addressed sensitively and clearly. Schools may also want to address the physical and emotional damage caused".
16. **Other:** There are a number of other areas that need clarification these include:
 - 16.1. Paragraph 54 makes an assumption that children will already be negotiating relationships seamlessly online and offline but this may not be the case and the final guidance should not be complacent in setting out how schools it can support children to do this.
 - 16.2. The proposed content on respecting others needs to be strengthened so that it incorporates respecting other cultures and backgrounds.
 - 16.3. the draft guidance does not indicate how RE and RSE will cross refer or link to content provided in the curriculums for Health Education (HE) and Personal, Social, Health and Economic education (PSHE).
 - 16.4. Ofsted will soon be consulting on a new education inspection framework and it would be helpful to ensure that it takes account of the proposals set out in this consultation and vice-versa.

² <https://www.gov.uk/government/consultations/transforming-children-and-young-peoples-mental-health-provision-a-green-paper>

³ Definition of County lines exploitation: The exploitation of young people by urban gangs and organised crime groups which might involve drugs, violence, gangs, safeguarding issues, criminal and sexual exploitation, modern slavery, and missing persons beyond their urban area into suburban, market and/or coastal towns

Relationships and Sex Education (RSE)

17. There are a number of areas where the proposed content for RSE either demonstrates a gap or where content could be strengthened. This includes the following areas:
18. **Body image, consent, staying safe and respect:** The proposed content does not address how young people will be educated and supported to form realistic views of their appearance and to be critically aware of how the media can present an unreal picture of sexual behaviour and body image and the impact this can have such as the development of eating disorders and obesity.
19. The reference in paragraph 65 which refers to resisting pressure to have sex unhelpfully places “(and not applying pressure)” in brackets – this could undermine teaching on what constitutes consent and what makes safe and happy sexual (and non-sexual) relationships.
20. Content on “being safe” needs to be strengthened so that young people are informed about where to go for help and who to speak to if they are a victim of grooming, exploitation, Female Genital Mutilation (FGM), domestic abuse etc or suspect a friend may be a victim – in addition the content does not mention gangs and this needs to be included given that this may be a key problem in some areas.
21. The content on respectful relationships including friendships, particularly bullet point 3 needs to be strengthened so that it incorporates respecting other cultures and backgrounds.
22. The final content needs to be LGBT inclusive throughout the RSE, PSHE and HE curriculums. Teaching must be equally inclusive of and relevant to all CYP, irrespective of their own sexuality and gender identity, or that of their family.
23. **Mental health and wellbeing:** We know that 50 per cent of mental health problems are established by age 14 and 75 per cent by age 24, yet the proposed content does not include details on how schools will educate young people to stay mentally healthy, improve their wellbeing, and develop their self-esteem and self-worth. This is contrary to the Dfe and DHSC Green Paper commitment to “ensure young people are taught core content on physical health and mental wellbeing... [and] Mental resilience and wellbeing will form a key element”⁴ in the RSE curriculum. This needs to be addressed in the guidance because:
 - 23.1. There is a growing crisis in CYP’s mental health. Recent research found that 47 per cent of children who reported low happiness in life had depressive symptoms⁵. The Government’s plans to roll out a Designated Senior Lead for mental health and Mental Health Support Teams in schools and pilot a four week waiting time standard will only reach a fifth to a quarter of the country by the end of 2022/23, this leaves many CYP without the urgent support they need. RSE is a key tool for schools to educate YP and identify mental health issues early.

⁴https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728892/government-response-to-consultation-on-transforming-children-and-young-peoples-mental-health.pdf

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https://www.childrensociety.org.uk/sites/default/files/the_good_childhood_report_full_2018.pdf

23.2. As part of a wider support offer to CYP and to address the crisis issue. An independent School Based Counselling (SBC) can offer immediate support with no thresholds, reduce distress, take pressure away from specialist services and would build on DfE advice 'Counselling in schools: a blueprint for the future'⁶. There is a clear and positive evidence base for SBC and we strongly recommend the Government introduces mandatory independent SBC in every secondary school and alternative provision as part of an integrated whole school approach. There is considerable support from across different sectors for SBC⁷. Our review of the costings indicate it would cost in the range of £90 million per annum to have a service in every secondary school in England.

24. **Domestic abuse and other types of abuse:** Whilst domestic abuse and grooming are mentioned in the draft content for RSE it will be vital for the guidance to address these topics thoroughly given the Government's forthcoming Bill on Domestic Abuse. As well as the Serious Violence Strategy which places a significant emphasis on early intervention and prevention. Children and young people need to be aware of the risks associated with criminal exploitation, grooming and county lines gangs. DfE will need to take into account any legislative changes on domestic abuse and ensure they are clearly reflected in RSE teaching.

25. **Online activity/ social media:** Given the widespread prevalence of sexting and young people's access to online pornography, opportunities need to be provided to discuss representations of sex and how these are gendered.^[1] Educating children and young people early about the risks associated with digital and social media, including how to spot dangers, staying safe online and how to report abuse must form a part of the curriculum.

26. **PSHE:** has proven benefits to mental and physical health, online and offline safety and in preparing CYP for life and work. Many pupils miss out on these benefits because it does not have statutory status. For RE, HE and RSE to have full impact PSHE must be given statutory status in all primary and secondary schools; inclusive of academies, special schools, free schools and maintained schools and for parents to be given the same rights to withdraw their child.

Financial Education

27. Councils recognise the importance of financial literacy/education with many working with their partners to develop strategies to tackle financial exclusion. Educating young people early on how to manage their finances, avoid and manage debt are valuable life skills. The impact of unmanageable debt has been shown to be related to financial exclusion, family breakdown and poor physical and mental health. It makes sense to tackle this issue holistically as part of the wider package of support provided by RSE, PSHE and HE to give young people sufficient knowledge on how to lead healthy lifestyles.

28. The Government's forthcoming domestic abuse bill plans to include a statutory definition of domestic abuse, which will include economic abuse. Given this,

⁶ <https://www.gov.uk/government/publications/counselling-in-schools>

⁷ Association of Directors of children's Services, the Mental Health Foundation, the British Association for Counselling and Psychotherapy

^[1]Key messages from research on child sexual exploitation: Professionals in school settings, March 2017: https://www.csacentre.org.uk/index.cfm/_api/render/file/?method=inline&fileID=A4CDD829-75B7-40B7-88FA4B774DD31F2A

it's particularly important that children and younger people are taught about financial education and also the context within healthy relationships.

Parents right to withdraw their child from sex education

29. We support the emphasis in the guidance that head teachers should take a good practice approach of discussing a parent's request that their child be withdrawn from some or all of sex education delivered as part of statutory RSE with the parent and, as appropriate, with the child to ensure that their wishes are understood and to clarify the nature and purpose of the curriculum. 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. As set out in the guidance, all schools must also have an up-to-date policy on RE, RSE and sex education, which is available to parents and others via their website and in hard copy by request.
30. It is important that young people learn these important skills and knowledge. During the discussion with the head teacher about their 'request to withdraw', parents should be given the benefits of their child receiving sex education and any effects that withdrawal might have on the child. We suggest that the guidance is strengthened so that schools have a greater role in supporting parents who wish to deliver sex education to their child at home. In addition teachers and headteachers should be trained and supported to discuss a parents right to withdraw their child from sex education and to teach it at home. This will help to ensure messaging on sex education is consistent between home and school and will help to mitigate any negative effects like the child hearing their peers' version of what was said in the RSE classes, rather than what was directly said by the teacher. In primary schools head teachers must comply with a parent's wish to withdraw their child from sex education beyond the national curriculum for science. We recommend the approach of schools taking a greater role in supporting those parents who wish to deliver sex education at home should also be observed.
31. The guidance should be strengthened so that schools are supporting parents of CYP with special needs to give them the skills needed to be able to talk to their CYP about the curriculum content in RE, RSE, PSHE and HE to ensure messaging is consistent between home and school. In addition schools should also consult and engage with parents whose CYP have SEND as well as more widely with all parents.

2. Physical Health and Wellbeing

32. The title of this section in the draft guidance is confusing, presumably it relates to the proposed content for Health Education but it has not been called HE. Given that the subject will be known as HE in the regulations we recommend that this section is amended in the guidance so it's clear to the reader that this is what it relates to.
33. The proposed content demonstrates a lack of parity between mental and physical health in the proposed content for primary and secondary school pupils. For example, paragraph 88 and the sections called 'Health and prevention' and 'Basic first aid' focus on physical self-care and first aid but do not include strategies to help children cope with low level anxieties⁸ which can

⁸ <https://healthyfamilies.beyondblue.org.au/age-6-12/mental-health-conditions-in-children/anxiety/strategies-to-support-anxious-children>

help to protect their mental health and wellbeing and build resilience and coping mechanisms. A more balanced approach would help to ensure mental health is valued and treated equally to physical health (parity of esteem) in the curriculum and by teachers, pupils and parents.

34. Mental health first aid training should be included in the curriculum as well as basic first aid training for physical health. The Government has committed to training a further 1,000 staff in state schools by 2019. We are concerned that training some but not all schools risks a postcode lottery of support for CYP. The Government must fund all primary and secondary state and non-maintained schools to receive this vital training to ensure equality of access
35. The proposed content on internet safety and harms does not address how children report online abuse and who they can talk to about it, this should be included and children should be given the skills needed to report abuse and talk to their parents and adults in schools.
36. Paragraph 95 makes reference to the link between academic achievement and health - 'they [young people] should know that there is a relationship between good physical health and good mental wellbeing. This can also influence their ability to learn.' It's important that the guidance is clear that pressure to achieve academically can lead to a range of issues including in some CYP mental health problems.
37. Young people who receive comprehensive, high quality RSE are more likely to delay the first time they have sex, have consensual relationships, be aware of and report abuse, use contraception and condoms when they start a sexual relationship and be less likely to be pregnant by 18 or contract a sexually transmitted infection.⁹ We welcome a focus on equipping YP with the skills and knowledge needed in these areas.

3. Engaging with parents and wider communities and delivery and teaching strategies

Engaging with parents and wider delivery

38. The approach could be strengthened to better reflect the role schools can play in supporting parents to talk to their child and to provide consistent messages and advice between school and home. Evidence shows that as many as 7 out of 10 parents would welcome help and support from their child's school about how they can talk to their child about growing up and related issues.¹⁰
39. Many schools will have experience of effectively consulting parents. It is important that existing mechanisms that are working well are allowed to continue and that schools are not expected to "reinvent the wheel" there is local flexibility.
40. The guidance could also be strengthened to equip CYP with the skills to talk to parents and professionals. The majority of young people want to learn about RSE at school, but they also want to be able to talk to their parents and health professionals, such as school nurses, school counsellors, or sexual health services about sex and relationships too.

⁹ RSE: Contributing to the safeguarding, sexual & reproductive health and wellbeing of children and young people. What role can councillors play?, LGA et al, 2018

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41. CYP should be signposted to wider services provided by the school, local authority, health services and voluntary sector. Consulting with young people to make services young people friendly will help them to feel confident about using services and will help to reduce stigma.
42. The guidance could be strengthened so that schools are supporting parents of CYP with special needs to give them the skills needed to be able to talk to their CYP about the content in RE, RSE, PSHE and HE to ensure messaging is consistent between home and school. In addition schools should consult and engage with parents of CYP with SEND.
43. We reiterate our earlier point that parents must be given the right to withdraw their child and the process for how they do this, should they wish to do so must be clearly communicated to them by the school.

Delivery and teaching strategies

44. Flexibility is important to enable provision to be informed by local priorities. The Children Act 2004, provides a duty for schools to cooperate with local authorities to improve the wellbeing of CYP, including physical and mental health and emotional wellbeing and the Health and Social Care Act 2012 put a duty on councils to develop Joint Strategic Needs Assessment (JSNA).
45. JSNAs identify local population needs and can be used by schools to tailor RSE, HE, PSHE and RE content. Some examples of good practice includes modifying teaching to address high prevalence rates of certain sexually transmitted infections or high rates of obesity or modifying teaching to address issues about gangs to reflect local priorities. This can help to meet both safeguarding and wider locally identified public health needs.
46. All Schools - including academies and free schools must work with local authorities to identify local priorities to inform and commission consistent good quality RSE, RE, HE and PSHE as part of a whole system approach to improving public health outcomes for children, young people and families. The guidance should be amended to reflect this partnership approach.

4. Statutory guidance, draft regulations and regulatory impact assessment

Statutory Guidance

47. The inclusion of the following principles in the final guidance would improve it and help to set up the system for success:
 - 47.1. Engendering a sense of partnership working between schools and councils in the guidance to promote a whole systems approach to improving health, mental health and wellbeing outcomes for children, young people and families.
 - 47.2. For teaching to be provided by educators trained in RSE.
 - 47.3. For there to be genuine parity of esteem between mental health and physical health in the content for RE, RSE, PSHE and HE and in the guidance.
 - 47.4. For the guidance to be refreshed and updated accordingly. For it to take into account the Government's reforms for Transforming Children and Young People's Mental Health provision to help embed the reforms as

part of a whole system approach to improving mental health and wellbeing locally.

- 47.5. For the final guidance to encourage schools to engage with CYP so content can be designed in a way that is young people friendly and build young people's confidence in using sexual health, mental health and other services.
- 47.6. For final content to be LGBT inclusive throughout the RSE, PSHE and HE curriculums. Teaching must be equally inclusive of and relevant to all CYP, irrespective of their own sexuality and gender identity, or that of their family.

Draft Regulations

48. The draft regulations are unclear and confusing to an individual without a policy background. The regulations need to clearly spell out who they apply to i.e. maintained, non-maintained or independent schools, alternative provision and pupil referral units. This will help to ensure each body understands what the requirements are on them.
49. Given that the regulations will be read by a broad audience and would benefit from an explanatory note. We also recommend that the draft guidance sets out the regulatory changes in more detail.

Regulatory Impact Assessment

50. Schools need to be fully funded to meet any new duties under the proposed regulations. The Dfe should work with schools to get a clear picture of the cost implications.
51. In the event that the new regulations and duties pose a cost burden on local authorities a full impact assessment and consultation must be carried out by the Ministry of Housing, Communities and Local Government to ensure that any new burden on local government is fully funded as set out in the New Burdens Doctrine.