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## Welsh Government Consultation Document

# Consultation on proposals to ensure access to the full curriculum for all learners

Date of issue: 3 October 2019

Action required: Responses by 28 November 2019

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

This document is also available in Welsh.

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**Overview** We want your views on the impact of proposals that the new curriculum for Wales which will be introduced in 2022 should not include a right to withdraw from Religious Education (RE) and Relationships and Sexuality Education (RSE) and a change of name for RE.

**How to respond** This is a written, electronic consultation. Questions can be found at the end of this consultation document and you can complete the online form, download the form and complete manually and post to us at the address provided or send via email.

**Further information and related documents** Our National Mission: A Transformational Curriculum  
<https://gov.wales/our-national-mission-transformational-curriculum>

This consultation document can be accessed from the Welsh Government's website at [gov.wales/consultations](https://gov.wales/consultations). Large print, Braille and alternative language versions of this document are available on request.

**Contact details** For further information, please contact:

Arts, Humanities and Well-being Branch  
Curriculum and Assessment Division  
The Education Directorate  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

e-mail: [AHWB@gov.wales](mailto:AHWB@gov.wales)

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Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ

e-mail:  
[Data.ProtectionOfficer@gov.wales](mailto:Data.ProtectionOfficer@gov.wales)

The contact details for the Information Commissioner's Office are:  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 01625 545 745 or  
0303 123 1113

Website: <https://ico.org.uk/>

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## Ministerial foreword

Our vision for Wales is for a fully inclusive education system where all learners have the equity of access to education that meets their needs and enables them to participate in, benefit from and enjoy learning.

To help deliver this, we are in the midst of a transformative reform agenda, including the development of the Curriculum for Wales, based on learners making progress towards four purposes and, as part of this, providing the knowledge, skills and experiences to enable learners become healthy, ethical and informed citizens.

We are proposing that every child in a maintained school in Wales must have the right to access a broad and balanced curriculum; this includes access to Religious Education (RE) and Relationships and Sexuality Education (RSE).

RE and sex education are statutory requirements within the current curriculum. We propose that RE and RSE will be statutory within the new curriculum when it is introduced from 2022.

Through RE, learners explore the range of spiritual, philosophical, moral, social and cultural beliefs within their community, across Wales, and throughout the world. I am proposing to change the name of Religious Education to “Religions and Worldviews”, which appropriately reflects teaching practice within the new curriculum, and allows for the exploration of a range of religious and philosophical beliefs, as well as other beliefs and world-views, including non-religious world views.

Our responsibility as a government is to ensure that, through state education, all children and young people have access to learning that supports them to develop tolerance, empathy and understanding of different people, cultures and communities – and in understanding their rights and the rights of others. Children should be provided with access to information that keeps them safe from harm and allows them to navigate the world we live in, one which is very different to the world we or their parents grew up in.

All teaching and learning must be developmentally appropriate. It must be clear to parents what their children will learn about and to be able to engage in dialogue with schools about this part of the curriculum.

The teaching and learning in each school will be able to draw on a framework we will provide in guidance and should reflect the community the school serves.

I am minded to ensure all children and young people in maintained schools are required to study RE and RSE in the new curriculum, rather than continue the anomaly that parents can take the decision to prevent children from attending these specific and core lessons.

This consultation seeks views on the practical implications of such a change.

It provides an opportunity for parents, teachers, young people and stakeholders to help shape this important area.

I am very clear that we need to work with parents and carers, take account of their views and look at how we can balance the rights of parents to develop, care and

guide their children into adulthood and provide a broad and balanced education that serves the public good.

## What are the main issues?

1. This consultation asks for views on the practical implications on the proposal to ensure access to the new curriculum by not including the parental right to withdraw from RE and RSE<sup>1</sup>.

### Current curriculum

#### RE

2. At present, RE is part of the basic curriculum and schools have a statutory duty to teach RE to all learners in maintained schools, including those in the sixth form and Pupil Referral Units (PRUs) (covering ages 11 to 18), with an exemption for children in nursery classes.
3. The nature of the RE will vary according to whether the school is a faith or non-faith based school. The courts have established that RE must be taught in an objective, critical and pluralistic manner; in particular, the state is not permitted to pursue an aim of indoctrination (“the Pluralistic Requirement”). Nonetheless faith schools can teach RE in a way that accords with its faith basis but they must also provide neutral information on other religions and non-religious views as well.
4. In summary, the effect of the current legislation governing RE in schools is as follows:
  - the curriculum generally must be balanced and broadly-based and it must (a) promote the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, and (b) prepare pupils for the opportunities, responsibilities and experiences of later life;
  - that the curriculum must include provision for RE for all pupils at the school;
  - Community schools, foundation schools and voluntary schools without a religious character follow the Agreed Syllabus<sup>2</sup>;
  - Foundation and voluntary controlled schools with a religious character must provide RE in accordance with the Agreed Syllabus unless a parent requests that their child be provided with RE in accordance with the trust deed for the school or, if there is no trust deed, in accordance with the tenets of the religion;

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<sup>1</sup> See section 71(1) of the School Standards and Framework Act 1998 for the parental right to withdraw from RE & section 405 of the Education Act 1996 for sex education

<sup>2</sup> See paragraph 2 of Schedule 19 to the *School Standards and Framework Act 1998*. The Agreed Syllabus is the syllabus for religious education adopted by the local authority on advice of its Agreed Syllabus Conference. It sets out the content of religious education for those schools without a faith basis and for those with a faith basis but which do not follow a separate denominational education (voluntary controlled schools).

- Voluntary aided schools with a religious character must provide RE in accordance with the trust deed for the school, or if there is no trust deed, in accordance with the tenets of the religion. However, if the parents so request, this must be provided in accordance with the Agreed Syllabus (paragraphs 3 and 4 of Schedule 19 to the 1998 Act);
- that RE in non-faith-based schools must comply with the Christian tradition<sup>3</sup> requirement;
- RE in non-faith schools may not be given by means of any catechism or formulary which is distinctive of a particular religious denomination (although the study of such catechisms or formularies is permissible);
- the parent of a pupil has an absolute right to have the pupil excused from receiving RE, and no reason for the exercise of that right need be given;
- where a pupil has been so excused, he or she may (subject to certain conditions being met) be withdrawn from school to receive RE of a kind that his or her parent wishes him or her to receive; and
- if the school is a secondary school and pupils cannot be conveniently withdrawn from it, then (subject to certain conditions being met) facilities must be made available for the pupils to receive RE of a kind that their parents wish them to receive.

### *What is a faith school?*

5. The schools that may have a faith basis are as follows:

- a) voluntary controlled schools: these may or may not have a religious character;
- b) voluntary aided schools: these may or may not have a religious character; and
- c) foundation and foundation special schools: foundation schools may have a religious character also.

6. In practice almost all faith schools in Wales will be voluntary aided (category (b) above).

7. As noted above, in non-faith schools there is provision in the School Standards and Framework Act 1998 which states that no Agreed Syllabus may be distinctive of a particular religious denomination (“Catechism Provision”). This provision does not apply to faith-based schools. Whilst such schools must comply with the

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<sup>3</sup> Section 375(3) of the Education Act 1996 provides that every agreed syllabus shall reflect the fact that the religious traditions in Great Britain are in the main Christian whilst taking account of the teaching and practices of the other principal religious traditions represented in Great Britain.



Pluralistic Requirement (see paragraph 3), subject to that they may still teach according to their own catechism.

### *Parents' ability to prevent a child receiving RE*

8. Parents have been able to prevent a child from receiving RE since the Education Act 1944. Parents are not required to provide a reason for doing so and the right remains with the parent throughout schooling (including the sixth form).
9. This consultation proposes there will be no parental right to withdraw from RE (and RSE).

### **Sex education**

10. The current legislation requires that all secondary school age pupils attending maintained settings must receive sex education (set out in Section 101(c) and (d) of the *Education Act 2002*). Primary schools are able to deliver sex education but this is at the discretion of their governing bodies.
11. There is not a full definition of what sex education encompasses in the current curriculum but section 579(1) of the Education Act 1996 states that it does include information on sexually transmitted diseases. This is supplemented by statutory guidance. It has generally been interpreted more broadly to encompass aspects of relationships.
12. Both faith and non-faith based schools must teach sex education in a way that satisfies the Pluralistic Requirement and does not seek to indoctrinate in any particular religious view on issues relating to sex education. However, faith schools can teach it in a way that accords with its faith basis but must provide neutral information about other perspectives on the same issues.
13. Schools also have a statutory requirement to provide Personal and Social Education (PSE) for all compulsory school age pupils (generally ages 5-16). They are supported in planning their PSE provision by the non-statutory framework for PSE document, which contains a health and emotional well-being theme. However, as the PSE Framework is non-statutory, schools are free to decide on the content and approach for delivery as long as the subject is taught in a neutral way.
14. Relationships education is already present in the Foundation Phase, which covers 3-7 years old. The Foundation Phase contains a Personal and Social Development, Well-being and Cultural Diversity area of learning. Within this, children learn about themselves, their relationships with other children and adults both within and beyond the family.

### *Parents' ability to prevent a child receiving sex education*

15. Parents are currently able to prevent their children from receiving aspects of sex education in school (i.e. aspects not contained in the national curriculum). As

with RE, parents are not required to give a reason for withdrawal and this remains with the parent throughout schooling (including the sixth form). This consultation proposes there will be no parental right to withdraw from RSE (and RE).

## **New Curriculum**

16. We are developing a transformational curriculum and schools will be responsible for ensuring all their learners receive a broad and balanced curriculum, which is designed to meet the four purposes – that children and young people develop as:

- ambitious, capable learners, ready to learn throughout their lives;
- enterprising, creative contributors, ready to play a full part in life and work
- ethical, informed citizens of Wales and the world;
- healthy, confident individuals, ready to lead fulfilling lives as valued members of society.

17. To ensure the curriculum enables learners to progress in relation to achieving the four purposes, the new curriculum will include (amongst other things):

- A requirement for RE for pupils 3 to 16 years of age;
- A requirement for RSE for pupils aged 3 to 16 years of age.

18. Further details of the proposals are contained in the White Paper. While there will be requirements and guidance to support schools in developing and implementing the new curriculum, a purpose-led curriculum will offer considerably more freedom and agency to practitioners to offer learning which equips learners for the challenges and opportunities they face growing up and then living and working in the 21st century.

19. Within this purpose-led approach, both RE and RSE have a central role to play in realising the four purposes to the extent that we have proposed they must be separate statutory requirements.

### RE in the new curriculum

20. In proposals for the new Curriculum, RE<sup>4</sup> will continue to be compulsory, forming a statutory part of the Humanities Area of Learning and Experience, whilst recognising the local responsibility of the Agreed Syllabus Conferences and local authorities and the place of the denominational syllabus in faith based schools (e.g. Voluntary Aided schools with a religious character).

21. A new supporting framework is being developed to provide further detail about the relationship between RE, the Agreed Syllabus, and the areas of learning and experience. This is being taken forward by a group of RE practitioners, teachers drawn from our Quality Improvement practitioners, academics, and

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<sup>4</sup> Please see paragraphs 45 – 47 below for our proposal to change the name of this subject area

representatives from Standing Advisory Councils on Religious Education (SACREs) and the National Advisory Panel for Religious Education (NAPFRE).

22. It is our intention also that RE reflects our historical and contemporary relationship in Wales to philosophy and religious views, including non-religious beliefs. Therefore we propose the current legislation will be amended to ensure the agreed syllabus for RE takes account of non-religious world views which are analogous to religions (for example, humanism).
23. In developing respect and understanding of different forms of religion and world view over time and in different societies, RE provides valuable experiences for children and young people that make a positive contribution to each of the four purposes.

### RSE in the new curriculum

24. Relationships and Sexuality Education (RSE) explores the interconnected ways in which a wide and diverse range of social, cultural, technological and biological influences affect the ability to form and maintain positive relationships. It supports young people to develop the knowledge and skills needed to effectively navigate these rapidly changing influences and establish respectful, fulfilling relationships throughout their lives. These may include family relationships, friendships, professional relationships and sexual relationships. Moving from sex education in the current legislation to RSE in future reflects the internationally recognised World Health Organisation (WHO) standards for sexuality education. This definition seeks to encourage schools to take a joined up approach to education around relationships and the broader range of topics included under sexuality.
25. RSE within the new curriculum will be mandatory in all funded non-maintained settings and maintained schools (and PRUs) for learners aged 3 to 16. The four purposes of the curriculum support learners to grow as healthy, confident individuals who are able to build relationships based on mutual trust and respect, and develop their mental and emotional well-being by developing their resilience and empathy. RSE is essential to supporting this and should provide learners with the experiences, knowledge and skills to form and maintain a range of positive relationships. To properly reflect the breadth of what will be covered, it will be formally renamed in line with the recommendation of the Sex and Relationships Education Expert Panel<sup>5</sup>.
26. RSE will allow learners to explore how their experiences, decisions, social and cultural interactions, and relationships, drawn from the interpersonal level, through local, national, United Kingdom and global contexts, can help them grow in empathy and recognise the dignity and respect due to others, and to the living world around them. It is about nurturing and developing learners' understanding of the influences that can affect them, both positively and negatively, as they

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<sup>5</sup> <https://gweddill.gov.wales/docs/dcells/publications/180104-future-of-the-sex-and-relationships-education-curriculum-in-wales-en.pdf>

seek to develop and establish a range of respectful, healthy relationships. This includes learning at age appropriate stages about:

- relationships / friendship
- respecting values, rights, culture and sexuality
- understanding gender
- violence and staying safe
- relationships and sexuality, and health and well-being
- the human body and development
- sexuality and sexual behaviour

27. Developing RSE through different areas of learning and experience<sup>6</sup> within the new curriculum gives learners a rich and wide-ranging view of human relationships and sexuality from a variety of disciplines.

28. We propose that there will be a duty on the Welsh Ministers to issue statutory guidance on RSE in a way that is age-appropriate and developmentally appropriate for learners.

#### Role of RE and RSE in the new curriculum

29. Ensuring that RE and RSE forms part of the curriculum for all school learners would support learners to work towards the four purposes, and we believe there is a strong argument that these subject areas are necessary to produce ethical, informed citizens who are ready to be citizens of Wales and the world, and that schools have a role in providing neutral, comprehensive and accurate information to learners. Part of the rationale for including RE and RSE as mandatory elements in the new curriculum is the importance of their contribution to the four purposes; it is unlikely that some of the key characteristics could be secured by learners without access to these subjects.

30. There have been significant changes in society and the law since the introduction of the current curriculum. In this modern and increasingly complex world we now live in, religious and non-religious world views permeate through much of people's daily lives in one way or another. In order to equip a pupil for the modern world, schools must provide them with pluralistic, neutral and critical education on those religious and non-religious world views. Similarly in terms of RSE pupils have available to them a vast amount of information through the internet. That information can be accessed easily and in a number of different ways. We believe that the state has a moral obligation to ensure that children in schools receive neutral and accurate information in these issues which pervade throughout society.

31. Not including the right to withdraw would also support the interdisciplinary approach being adopted in the new curriculum. There is already anecdotal evidence that schools and parents find it difficult to identify those lessons from

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<sup>6</sup> It is proposed that the new curriculum will be organised around six 'areas of learning and experience': humanities; maths and numeracy; science and technology; expressive arts; literacy, languages and communication and health and wellbeing.

which their child should be withdrawn. This situation is likely to be exacerbated by the interdisciplinary nature of the new curriculum, and it would be difficult to ensure that any right to withdraw was capable of being meaningfully exercised.

## What we are proposing?

*Right to withdraw from RE and RSE:*

32. We are proposing to not include a right to withdraw from RE and RSE in the new curriculum for Wales. These lessons will be compulsory for all pupils.

33. In coming to this proposal we have carefully considered the views expressed in the responses to the White Paper and to the consultation on the RSE guidance. It is clear that these are issues on which there are strong views, and we recognise that people are concerned about:

- Developmental appropriateness, and that children should not be exposed to issues that they are not ready for;
- Role / primacy of family in providing guidance on these issues;
- The potential for there to be a lack of sensitivity to, or recognition of, different cultural or religious views;
- The capacity and capability to provide learning in a nuanced and sensitive way;
- Scope for unwanted conflict and disagreement.

34. At the same time, there has been strong support for our proposal that sex education would be replaced by RSE. The announcement was one of the most welcome and popular posts on our social media channels.

35. We also believe that, in a world where access to information – and disinformation – is universal and instantaneous, the curriculum has a key role to play in helping children and young people navigate all this safely and be able to judge what information they can trust and to recognise the very many negative perspectives they will be exposed to online.

36. Safeguarding all our young people and supporting them to navigate this complex world is vital. Parents, of course, have a central role to play in this but there is a crucial role for schools – and a role which is now more important than it has ever been.

37. On this basis we believe there is a strong principle-based case for all school learners to be guaranteed access to RE and RSE. For learners to fully benefit from a broad and balanced curriculum, they must be able to access all parts of the curriculum. Within the new purpose-led approach (outlined above), both subjects have a central role to play in our children and young people receiving a broad and balanced education and realising the four purposes.

38. There has been a clear message from practitioners that the way forward on these issues is for Government to decide at a national level and should not be passed to schools to manage.
39. In our increasingly complicated and rapidly changing world, the children and young people of Wales have a need and a right to receive consistent, factual and developmentally-appropriate learning about the issues covered in these subjects. This is important as part of the development of a more inclusive and tolerant society. High quality RSE and RE provision in schools supports children and young people to stay safe, to respect one another, and to build healthy relationships. These are important values we want all young people in Wales to develop to allow young people to be ethical, informed citizens of Wales and the world and healthy, confident individuals, ready to lead fulfilling lives as valued members of society.
40. We carefully considered whether providing a mechanism for parents to withdraw their children from RE and RSE would be appropriate in the new curriculum. We recognised that the ability to withdraw was important to some parents and that some parents take the view these are primarily matters for parents and families to educate in relation to. We also considered the potential role of right to withdraw in circumstances where there were concerns that teaching and learning was not pluralistic. We concluded that a right to withdraw was not the appropriate mechanism to deal with this and the practice in the particular school should be being addressed. This has already been identified as an area where investment in professional learning and resources will be required to support practitioners. There is also a role for self-assessment to identify where practice can be improved and to consider how the Regional Consortia and Estyn can help identify and support action to improve practice in this area.
41. We concluded that the principle-based case for all children and young people to have access to learning on these issues was very strong and that there would be practical difficulties in operating withdrawals in this much more integrated curriculum. We also concluded that the focus on developmentally appropriate and culturally sensitive teaching and learning; and the emphasis on engagement with communities and recognising and responding to the background of learners in discussing these subjects, would provide appropriate safeguards for parents.
42. On balance, not including the right to withdraw best meets our overall policy objectives, which are:
- For all learners to be able to access a curriculum which enables them to progress in relation to the four purposes
  - For the education system to play its part in creating a more inclusive and tolerant society and maximise its contribution to the well-being goals in the Well-Being of Future Generations (Wales) Act 2015
  - To recognise the role of parents and families in guiding these children in relation to these issues
  - To recognise, and respond to, the interests of all groups and promote equality
  - To not increase the burden on schools or the workload of teachers

43. Whilst we feel that schools have a crucial role to play in supporting learners to develop tolerance, empathy and understanding of different people and communities, and of both their rights and the rights of others, this does not mean that this proposal will replace parents' vital role in educating their children. The learning provided to our children and young people through RSE and RE in maintained schools will be provided sensitively and inclusively to complement it. The guidance on these subject areas will make it clear that the information covered must be conveyed in an objective, critical and pluralistic manner.
44. We will be carrying out meaningful and sustained engagement with communities about the content of RSE in the new curriculum and the way in which it will be taught. Also, we are establishing a working group to finalise the RSE guidance for the new curriculum and will seek to ensure that representatives from a variety of communities across Wales, including faith communities, are included and will be able to shape the final guidance.

#### *Change of name from RE*

45. Following the proposed change in name of Sex and Relationships Education (referred to as sex education in current legislation), to Relationships and Sexuality Education, which was done to reflect modern practice and approach to this subject area, we feel consideration should be given to the name Religious Education.
46. RE provides opportunities for learners to explore the range of spiritual, philosophical, moral, social and cultural beliefs within their community, across Wales, and throughout the world. We feel the subject name should reflect what learners will be taught through RE. As such, we are proposing to change the name of Religious Education, so that it appropriately reflects teaching practice within the new curriculum, and allows for the exploration of all religious and philosophical beliefs, as well as other beliefs and world-views, including non-religious world views. Our preferred name is Religions and Worldviews.

#### *Impact assessment*

47. Alongside this consultation paper, we are publishing our draft impact assessment. As no formal data is currently kept on the use of the right to withdraw, we have been dependent on anecdotal evidence from education practitioners. Whilst this has been very helpful, we want to understand more about the practical impact of this proposal before a final decision is made.

#### *Human Rights*

48. We consider that the proposals to not include the right to withdraw in the new curriculum for the new mandatory elements of RE (or Religions and Worldviews as we are proposing it is renamed) and RSE is compatible with the rights protected by the Human Rights Act 1998.

49. The parental rights in the second sentence of Article 2 Protocol 1 will be appropriately respected if the RE and RSE provided does not involve indoctrination and is provided in an objective, critical and pluralistic manner. The rights of the learner in Article 9 will be appropriately respected by ensuring they do not miss out on vital curriculum content – content which is important not just in terms of making progress in relation to the four purposes but also in safeguarding them. Their parents and wider community are free to provide education on RE (or Religions and Worldviews as we are proposing it is renamed) and RSE as they see fit outside of school.