



Children's Law Centre

Briefing document prepared for the Northern Ireland Assembly
Committee for Education in advance of an oral briefing from the
Children's Law Centre as part of the Committee's Inquiry into
Relationships and Sexuality Education

October 2024

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Introduction

The Children's Law Centre (CLC) is an independent charitable organisation, established in 1997, which works towards a society where all children can participate, are valued, have their rights respected and guaranteed without discrimination and where every child can achieve their full potential.

CLC was founded upon the principles enshrined in the United Nations Convention on the Rights of the Child (UNCRC)¹ and leads for the NI NGO sector in co-ordinating the submission of evidence to the United Nations Committee on the Rights of the Child to inform their monitoring and reporting work on the UK's compliance with children's rights standards.²

We offer training and research on children's rights, we make submissions on law, policy and practice affecting children and young people and we provide a free legal advice, information and representation service. We have a dedicated free phone legal advice line for children and young people and their parents as well as a Live Chat service for young people.

Our model of practice is very different to that provided by solicitors and legal practitioners working in private practice. We operate a child-accessible and jurisdictionally unique free expert legal advice, support and representation service for children, including children with severe and complex health and mental health needs, special educational needs and disabilities, social and emotional or additional learning support needs.

CLC welcomes the Committee for Education's focus on Relationships and Sexuality Education (RSE) and are grateful for the opportunity to contribute to its work in this regard. We particularly welcome the efforts of the Committee to facilitate the direct involvement of young people in this work.

¹ The text of the United Nations Convention on the Rights of the Child can be [accessed here](#).

² The most recent reports provided to the United Nations Committee on the Rights of the Child by CLC on behalf of the NGO sector in Northern Ireland include the *Northern Ireland NGO Stakeholder Report* (December 2022) [accessible here](#), the *Supporting Evidence* to that report which can be [accessed here](#) and *Rights Here, Right Now: Children and Young People's Report to the UN Committee on the Rights of the Child* (December 2022) which is [accessible here](#).

Our priorities in relation to RSE

It is CLC's position that all children and young people should have access to comprehensive, age and developmentally appropriate, evidence-based education regarding relationships, sexuality and sexual health, including scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion.

While the regulations³ introduced in 2023 by the then Secretary of State for Northern Ireland have gone some way to achieve this standard, it is clear from the inconsistencies in young people's experiences of RSE provision as well as the introduction of a parental opt out for new elements of the post-primary curriculum that more substantial reform remains necessary.

RSE provision should be consistent and of high quality, ensuring no young person or cohort of young people are directly or indirectly denied access to information in a safe and trusted environment which can keep them and others safe, support their development and meaningfully prepare them for life.

Teaching staff should also be resourced and supported to deliver this aspect of the curriculum confidently and effectively. Ongoing, direct consultation with young people should inform RSE provision now and in the future.

³ *The Relationships and Sexuality Education (Northern Ireland) (Amendment) Regulations 2023.*
[Accessible here.](#)

International Human Rights Standards

In forming our view on issues related to RSE provision we draw upon the standards set out in the United Nations Convention on the Rights of the Child (UNCRC) and the jurisprudence of the United Nations Committee on the Rights of the Child (CRC), i.e. its General Comments, Statements and Concluding Observations and Recommendations to the UK State Party.⁴ Alongside this we also draw upon the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)⁵, the recommendations of the United Nations Committee on the Ending of Discrimination Against Women (CEDAW)⁶ and the European Convention on Human Rights (ECHR), given domestic effect by the Human Rights Act 1998 (HRA)⁷.

Of particular relevance are UNCRC Articles 2 (non-discrimination), 3 (the best interests of the child), 5 (rights and duties of parents), 6 (life, survival and development), 12 (respect for the views of the child), 13 (freedom of expression), 14 (freedom of thought, conscience and religion), 19 (protection from all forms of harmful behaviour), 23 (rights of children with disabilities), 24 (right to health) and 28/29 (the right to education, and the purpose of such education).

Alongside these Articles a number of the CRC's General Comments provide contemporary context for the application of the Convention in the context of RSE. These include but are not limited to General Comment Number 1 (the aims of education)⁸ and General Comment Number 20 (the rights of the child during adolescence).⁹

Following the most recent review process conducted by the Committee on the Rights of the Child in 2023 examining the UK's (including devolved jurisdictions) compliance with the standards set out in the UNCRC, the following recommendation was made to:

“Integrate comprehensive, age-appropriate and evidence-based education on sexual and reproductive health into mandatory school curricula at all levels of education and into teacher training and ensure that it includes education on sexual diversity, sexual and reproductive health rights, responsible sexual behaviour and violence prevention, without the possibility for faith-based schools or parents to opt out of such education.”¹⁰

⁴ The text of the Convention and the General Comments, Statements and Concluding Observations and Recommendations of the Committee on the Rights of the Child can all be accessed via the Committee's [webpage here](#).

⁵ The text of the United Nations Convention on the Rights of Persons with Disabilities can be [accessed here](#).

⁶ CEDAW/C/OP.8/GBR/1. Committee on the Elimination of All Forms of Discrimination against Women. Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. 2018. [Accessible here](#).

⁷ *Human Rights Act 1998*. [Accessible here](#).

⁸ CRC/GC/2001/1. Committee on the Rights of the Child, General Comment Number 1 on the aims of education. April 2001. [Accessible here](#).

⁹ CRC/C/GC/20. Committee on the Rights of the Child, General Comment Number 20 on the implementation of the rights of the child during adolescence. December 2016. [Accessible here](#).

¹⁰ CRC/C/GBR/CO/6-7. Recommendation 44 (b). Committee on the Rights of the Child, Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland. June 2023. [Accessible here](#).

This latest recommendation follows on from recommendations made since the Committee's very first examination of the UK in 1995, which have been repeated or built upon in each subsequent examination process. Many of the features of the Committee's recommendations in 1995, 2002, 2008, 2016 and again in 2023 are relevant to the deliberations of the Committee for Education in the context of its inquiry into relationships and sexuality education.

The CRC has been consistent and clear on both the necessity for and wide-ranging benefits of mandatory RSE within the curriculum to meaningfully fulfil children's rights. These include comprehensive RSE as a measure to address and prevent bullying, abuse, violence and exploitation (including sexual bullying, abuse, violence and exploitation) of children, particularly children with disabilities; to equip young people with accurate, age-appropriate information to prevent early pregnancy, STI transmission and other sexual and reproductive health-related issues; to understand healthy relationships, rights, bodily autonomy, consent and respect for self and others; to improve the experiences of LGBTQ+ young people and combat discrimination; to contribute to efforts to end gender-based violence; and to stay safe online.

Given its relevance to recent developments in RSE provision, we draw attention to the CRC's Statement on Article 5 of the Convention which was published in October 2023.¹¹ Article 5 of the Convention states:

“States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.”

The Committee's Statement provides a detailed interpretation of Article 5 of the Convention on the Rights of the Child. It clarifies the balance between parental guidance, children's evolving capacities, and children's rights as independent from their parents. The statement emphasises that while parents have responsibilities to provide appropriate guidance, it must respect the child's autonomy as they grow. The statement outlines how parental guidance must promote the child's best interests and evolving abilities, and cannot justify harmful practices like discrimination, violence, or restrictive traditions as well as the obligations of the state to intervene if children's rights are violated.

CLC believes that it is important to respect the role and value of parental guidance, which will naturally change and develop according to the evolving capacities of the child, whilst also balancing this with recognition of children as a holder of their own legal rights. One cannot simply opt out of a child's rights, and as the CRC have said in their General Comment Number 1, “Children do not lose their human rights by virtue of passing through the school gates.”¹²

¹¹ Statement of the Committee on the Rights of the Child on Article 5 of the Convention of the Rights of the Child. 11 October 2023. [Accessible here](#).

¹² CRC/GC/2001/1. Committee on the Rights of the Child, General Comment Number 1 on the aims of education. Paragraph 8, page 3. April 2001. [Accessible here](#).

Current provision and the views of children and young people

Article 12 of the UNCRC sets out that:

1. *“State Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*
2. *For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.”*

The UN Committee on the Rights of the Child provided further clarity on this point in their Concluding Observations and Recommendations to the UK Government in 2023:

“Noting with concern that children’s views are not systematically taken into account in decisions affecting them and in national and local decision-making, and underscoring the importance of the availability of age-appropriate information to facilitate child participation, the Committee recommends that the State party:

- (a) Ensure the right of all children, including younger children, children with disabilities and children in care, to express their views and to have them taken into account in all decisions affecting them, including in courts and relevant judicial proceedings and regarding domestic violence, custody, placement in alternative care, health care, including mental health treatment, education, justice, migration and asylum;*
- (b) Strengthen measures to promote the meaningful participation of children in family, community and school settings and in policymaking at the local and national levels, including on so-called reserved matters, and develop mechanisms to ensure that the outcomes of children’s and youth parliaments are systematically fed into public decision-making;*
- (c) Ensure that all relevant professionals working with and for children systematically receive appropriate training on the right of the child to be heard and to have his or her opinions taken into account;....”¹³*

It is therefore imperative that the views of children and young people are taken into account in relation to the provision and delivery of RSE. Such consultation is essential not only in ensuring compliance with Article 12 of the UNCRC, but also in ensuring Government’s compliance with Section 75 of the Northern Ireland Act 1998.

In advance of the most recent CRC examination of the UK (and devolved) government’s implementation of the UNCRC, CLC undertook an extensive consultation exercise with children and young people in Northern Ireland, using both an online survey¹⁴ and a series of in-person workshops to gather children and young people’s views. The survey garnered 1,026 responses, with a further 127 children and young people participating in workshops.

¹³ CRC/C/GBR/CO/6-7. Recommendation 23. Committee on the Rights of the Child, Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland. June 2023. [Accessible here](#).

¹⁴ Children’s Law Centre: Results from the 2022 Children and Young People’s Survey Conducted by Youth@CLC. [Accessible here](#).

The views were collated into a report¹⁵, which was subsequently submitted to the UN Committee on the Rights of the Child.

From that exercise, views relevant to the delivery and implementation of a comprehensive RSE curriculum are as follows:

“Only 35% of survey respondents replied ‘Yes’ when asked whether they thought children and young people are given adequate information in school about Relationship and Sex Education [RSE]. Among 16-17 year olds, 69% replied ‘No’ to this question compared with 30% of 12-13 year olds; among those with disabilities 57% replied ‘No’ in comparison with 47% of those without disabilities.

Lack of RSE for young people with disabilities was raised as a significant issue by a member of staff in the workshop with disabled young people: “The assumption is, if you have a disability you’re not going to want to have sex or a relationship.” This assumption was clearly disputed by one young woman: “I want to go out dating. You know me, I want to get a boyfriend ... I want to meet a boy, fall in love and live happily ever after ... I said ‘Mummy listen, I am going on a date online/ app because I can’t get out to meet boys ... you need to let me grow up, be my own woman’.”

On September 23rd 2023, over 100 young people from across Northern Ireland attended an event in Ulster University to discuss key issues relating to young people, specifically linking them to the UN Committee on the Rights of the Child’s Concluding Observations and Recommendations.¹⁶ The issue of RSE was raised a number of times by the young people in attendance.

One young person said:

“Recently, RSE has been a source of contention in Northern Ireland, with many having differing opinions on it. Young people are entitled to a comprehensive and holistic education regarding relationships and sexual education, and the Executive should take this into account to ensure that child’s rights are protected.

When the correct information is delivered in a safe way to children and young people, they are more likely to have a better understanding of themselves and their body, and what to do in many different situations. There are instances, however, when this is not the case and children and young people may require family planning services.... Without these services our safety is compromised as young people.”

Another young person said:

“Schools have too much autonomy regarding the extent to which RSE is implemented in schools. I discussed [with the UN Committee on the Rights of the Child in Geneva] how it should be mandatory in every educational setting, not limited to just schools, with age-appropriate information provided about respect in

¹⁵ Children’s Law Centre: Rights Here, Right Now. Children and Young People’s Report to the UN Committee on the Rights of the Child about Children’s Rights in Northern Ireland. December 2022. [Accessible here](#).

¹⁶ Rights Here, Right Now Conference: Young People using Children’s Rights for Positive Change. The event recording can be [accessed here](#).

relationships including same sex relationships or other, consent, sexual and reproductive rights and relationships and awareness of sexual abuse or exploitation.

CLC believes that this contributes to what is now a substantial body of evidence¹⁷ which indicates that existing RSE provision in Northern Ireland is inconsistent, inadequate and failing to meet the needs and expectations of our young people.

The flexibility and insufficiency of the statutory curriculum, the autonomy of schools, the capacity and confidence of staff and the resulting, apparent reliance on either individual teaching staff and/or external providers have, in our view, all contributed to the need for more substantial reform of RSE provision in Northern Ireland so that it may serve its intended, child-centred purpose.

¹⁷ For example, recommendations made by the Marshall Inquiry in 2014 ([accessible here](#)), the Gillen Review in 2019 ([accessible here](#)), the Education and Training Inspectorate in 2023 ([accessible here](#)), the NI Human Rights Commission in 2023 ([accessible here](#)) alongside other research including research conducted by the Belfast Youth Forum published in 2019 ([accessible here](#)) as well as relevant findings from the Northern Ireland Young Life and Times and Kids Life and Times Surveys ([accessible here](#)), amongst others.

Recent developments

On June 5th 2023, the then Secretary of State for Northern Ireland brought forward Regulations under his powers in section 9 of the *Northern Ireland (Executive Formation etc) Act 2019 - the Relationships and Sexuality Education (Northern Ireland) (Amendment) Regulations 2023*.

CLC cautiously welcomed these Regulations insofar as they sought to achieve compliance with the Recommendations made at Paragraphs 85 and 86 of the 2019 CEDAW Inquiry Report¹⁸. However, at the time, CLC also expressed profound concern about the provision included in the Regulations to allow parents to withdraw their child(ren) from the newly mandated elements of the curriculum at Key Stages 3 and 4 for pupils to receive age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion (referred to as Article 5(1A) education).

To change the law to incorporate new, mandatory elements to the curriculum while at the same time making provisions to allow a pupil to be withdrawn from those same elements of the curriculum appears counter-intuitive at best. The Committee for Education may wish to seek clarification from CEDAW as to whether the provision of an opt out mechanism was ever envisaged by their recommendations.

The Department of Education's recent guidance permits parents to make a request for pupils in years 8, 9, 10 and 11 to be excused from Article 5(1A) education or specified elements of it by confirming which elements of the education the pupil should be excused. For pupils in year 12, where a parent makes a request for a pupil to be excluded, the pupil needs to confirm that they do not object.

CLC have been consistent in our view that there should not have been any provision for such an opt out, expressing concerns that such a mechanism could be misused to undermine a child's right to information. While we are absolutely clear that it is essential for parents to play a guiding role in their child's education and development, we are equally clear that the provision of a blanket opt out fails to recognise the increasing capacity of young people to make their own choices.

Our analysis is that the opt out, and the guidance from the Department to enable its operationalisation fails to properly understand children's rights and best interests as primary consideration in the provision of RSE, creating an unwelcome imbalance in which those most impacted by this change, young people, have the least influence.

CLC are concerned that the provision of a parental opt out could be abused and misused, applied inconsistently, may rely heavily on the competency and personally held views of Governors and senior management within schools, and in the instance of a year 12 pupil, relies on them to be able to advocate for themselves against their parents wishes. It therefore has the potential to further contravene a number of specific and inter-related Articles of the UNCRC.

¹⁸ CEDAW/C/OP.8/GBR/1. Committee on the Elimination of All Forms of Discrimination against Women. Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. 2018. [Accessible here](#)

It is also important to recall the most recent recommendation of the UN Committee on the Rights of the Child which explicitly ruled out the possibility of an opt out in the context of comprehensive RSE provision.¹⁹ This recommendation was reinforced by the Committee's Vice-Chair Mr Bragi Gudbrandsson²⁰ during a visit to Northern Ireland in November 2023 where he delivered the Children's Law Centre's Annual Lecture.²¹

Whilst CLC believe that there should be no option for parents to withdraw their child(ren), there now needs to be further consideration and scrutiny of the opt out mechanism, including how it is operating in practice, how post-primary schools and their Boards of Governors will report to the Department of Education, and ultimately report back to the NI Assembly, as is required by the Regulations. Reporting procedures should include disaggregated data to monitor if certain groups of children and young people are directly or indirectly denied access to RSE. Clarity is also required on what power(s) the Department of Education has to compel schools to record and report the necessary information to aid analysis of the impact of the opt out mechanism, to ensure the fullest possible picture is provided.

It is also important to be assured of the capacity of schools to identify and respond effectively to child safeguarding issues as a number of the concerns that have been raised regarding the introduction of the opt out mechanism related to child safeguarding. Namely, that this new guidance has the potential to lead to some young people having an even lower chance of receiving age-appropriate, comprehensive and evidence-based RSE, with the associated potential of leaving them at risk of harm. This seems completely contrary to the Department's policy intentions on RSE.

The UN Committee on the Rights of the Child placed an importance on monitoring the implementation of policies relating to children and young people in their most recent Concluding Observations and Recommendations, stating:

“Recalling its previous recommendations, the Committee recommends that the State Party establish structures, such as a ministerial lead at the national level, with corresponding structures in the devolved administrations and territories, responsible for ensuring the effective monitoring and coordination of all activities relating to the implementation of the Convention across all sectors and at all levels.”²²

Monitoring of a policy is also an important aspect of the implementation of Section 75 of the Northern Ireland Act. CLC were disappointed in the previous attempt to equality screen during the consultation on the Department's guidance in November 2023, as the screening focused solely on the consultation relating to providing a parental right to excuse their child from RSE. The screening document should have also considered the implications of not

¹⁹ CRC/C/GBR/CO/6-7. Recommendation 44 (b). Committee on the Rights of the Child, Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland. June 2023. [Accessible here](#)

²⁰ Bragi Gudbrandsson served as the Chair of the CRC's Taskforce for its most recent (2023) examination of the UK. He is the former Director General of the Icelandic Government Agency for Child Protection in Iceland and a recognised international expert on the protection of children from sexual exploitation and abuse. Mr Gudbrandsson's CV can be accessed on the CRC [webpage here](#).

²¹ The Children's Law Centre's 2023 Annual Lecture took place on November 21st 2023 and can be [watched here](#) or the text of the Lecture can be [accessed here](#).

²² CRC/C/GBR/CO/6-7. Recommendation 10. Committee on the Rights of the Child, Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland. June 2023. [Accessible here](#).

providing comprehensive, age-appropriate RSE to young people, with the use of disaggregated data to analyse whether this would have a differential adverse impact on any of the protected groups. If differential adverse impact was identified, which we believe it would have, mitigations and mechanisms for monitoring must be put in place.

CLC strongly advocates that policy on RSE should be driven by children's rights and that responsibilities of all involved should be directed towards respecting and implementing those rights.

Conclusion

CLC welcomes the opportunity to respond to the Committee for Education's mini-inquiry into relationships and sexuality education. We believe RSE provision in Northern Ireland warrants scrutiny of this nature and careful consideration of what meaningful reform in this area of policy could achieve to ensure all of our children and young people have access to a fit-for-purpose curriculum which can keep them and others safe, support their development and meaningfully prepare them for life.