



Northern Ireland
Assembly

Research and Information Service Briefing Note

Paper 000/00

January 2024

NIAR-12-2024

Legislative Changes to Relationships and Sexuality Education in Northern Ireland

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This briefing note provides an overview of legislative changes introduced in 2023 to Relationships and Sexuality Education in Northern Ireland.

This information is provided to Members of the Legislative Assembly (MLAs) in support of their duties, and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as professional legal advice, or as a substitute for it.

1 RSE and the curriculum

Since the revised Northern Ireland Curriculum was introduced in 2007, Relationships and Sexuality Education (RSE) has been a statutory component of the following key areas of learning:

- [Personal Development and Mutual Understanding in the primary curriculum](#) (includes Foundation stage, Key Stage 1 and Key Stage 2);¹
- [Personal Development and Home Economics statements of requirement for Key Stage 3](#);² and
- [Personal Development strand of Learning for Life and Work at Key Stage 4](#).³

The legal minimum content for each area learning strand is set out as high-level areas of learning in [The Education \(Curriculum Minimum Content\) Order \(Northern Ireland\) 2007](#)⁴.

Issues relating to RSE may also be taught as part of other subjects including Religious Education, Biology, History, Drama and English.

1.1 Delivery of RSE in schools

The Department of Education (DE) requires all grant-aided schools to have an RSE policy, reflective of the school's ethos, subject to consultation with parents and pupils, and endorsed by the Board of Governors.⁵ Schools have flexibility in how they develop and deliver their RSE taught programme⁶. Beyond the minimum content, teachers are expected to 'provide a balance of experiences'⁷

¹ Council for the Curriculum, Examinations and Assessment, [Personal Development and Mutual Understanding](#)

² Council for the Curriculum, Examinations and Assessment, [Learning for Life and Work at Key Stage 3](#)

³ Council for the Curriculum, Examinations and Assessment, [Learning for Life and Work at Key Stage 4](#)

⁴ [The Education \(Curriculum Minimum Content\) Order \(Northern Ireland\) 2007](#), Schedule 2

⁵ Department of Education, [Circular 2013/16 - Relationships and Sexuality Education Policy in Schools](#) (2013)

⁶ Department of Education, [Circular 2024/1-Guidance on amendments to the Relationships and Sexuality Education \(RSE\) curriculum content](#) (2024) p4

⁷ Department of Education, [Relationship and Sexuality Education](#)

drawn from a list of examples by the Council for the Curriculum, Examinations and Assessment (CCEA). However, the examples and other resources from CCEA (see section 2.2 for further detail) are not in themselves statutory.

The role of the Board of Governors and the Principal is to exercise their respective functions in relation to the school so as to ensure that the revised curriculum is effectively delivered as required by law.⁸ It is the responsibility of the Board of Governors of each school to ensure that a comprehensive programme is delivered which meets the needs of its pupils and aligns with its RSE policy⁹.

1.2 Review and recommendations for RSE in Northern Ireland

RSE provision in Northern Ireland has been subject to considerable review, scrutiny and debate. Recommendations have been made by the UN Committee on the Elimination of Discrimination Against Women¹⁰, the UN Committee on the Rights of the Child¹¹, the Expert Panel on a Gender Equality Strategy¹², the Gillen Review of law and procedures in serious sexual offences cases¹³, and young people and other stakeholders. Concerns have been raised about the breadth and depth of topics covered; the consistency in delivery across schools; and the extent to which delivery is holistic and inclusive. Recommendations have been made to the content, delivery, and procedures for monitoring and evaluation.

DE commissioned the Education and Training Inspectorate (ETI) to undertake a [thematic evaluation](#) of the Preventative Curriculum in Schools and Education

⁸ Department of Education, [The Governor Guide](#), (2023) Chapter 7 'Northern Ireland Curriculum'

⁹ Department of Education, [Relationship and Sexuality Education](#)

¹⁰ [Report of the 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 \(CEDAW/C/OP.8/GBR/1\)](#) (2018)

¹¹ [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 \(CRC/C/GBR/CO/6-7\)](#) (2023) Para 44(b)

¹² A M Gray et al., [Gender Equality Strategy Expert Advisory Panel Report: Research Thematic Areas, Key Findings and Recommendations](#) (2020)

¹³ J Gillen, [Gillen Review Report into the law and procedures in serious sexual offences in Northern Ireland](#) (2019)

Other Than At School (EOTAS) Centres. The evaluation, published in April 2023, highlighted considerable variation in the effectiveness and range of approaches taken by schools in delivering the taught elements of the preventative curriculum. It also found that too many schools avoid, or cover with insufficient depth, many of the more sensitive aspects of the RSE curriculum including gender and sexual identity; LGBTQ+; and sexual abuse¹⁴. DE has set up a Task and Finish Group to consider and respond to ETI's findings and recommendations¹⁵.

2 Recent legislative amendments to RSE in Northern Ireland

The [Northern Ireland \(Executive Formation etc\) Act 2019](#) received Royal Assent on 24 July 2019. Section 9 (1) of this legislation requires the Secretary of State for Northern Ireland to ensure that the recommendations in paragraphs 85 and 86 of the 2018 report of the UN Committee on the Elimination of Discrimination Against Women ("the CEDAW Report")¹⁶ are implemented in respect of Northern Ireland¹⁷.

Paragraph 86(d) of CEDAW's report requires the United Kingdom Government to:

"Make age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights a compulsory component of curriculum for adolescents, covering prevention of early pregnancy and access to abortion, and monitor its implementation"¹⁸.

On 5 June 2023, the Secretary of State brought forward the [Relationships and Sexuality Education \(Northern Ireland\) \(Amendment\) Regulations 2023](#) under

¹⁴ The Education and Training Inspectorate, [The Preventative Curriculum in Schools and Education Other Than at School \(EOTAS\) Centres](#) (2023) p5

¹⁵ Department of Education, [Relationship and Sexuality Education](#)

¹⁶ [Report of the 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 \(CEDAW/C/OP.8/GBR/1\)](#) (2018)

¹⁷ [Northern Ireland \(Executive Formation etc\) Act 2019](#), section 9(1)

¹⁸As cited in footnote 16, [Para 86\(d\)](#)

his powers in Section 9 of the Northern Ireland (Executive Formation etc) Act 2019. The Regulations came into force on 1 July 2023 and apply from the 2023-24 school year onwards.

The Regulations¹⁹ amend the [Education \(Northern Ireland\) Order 2006](#) and the [Education \(Curriculum Minimum Content\) Order \(Northern Ireland\) 2007](#) to add the requirement that Key Stage 3 and 4 pupils receive age-appropriate, comprehensive, and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion as part of Learning for Life and Work; hereafter, referred to as Article 5(1A) as per the relevant provision in the amended 2006 Order.

The Regulations introduce a review provision²⁰, with DE required to publish a report on the implementation of RSE in grant-aided schools by 1 September 2026, and lay this report before the Northern Ireland Assembly. In preparing this report, the DE is required to consult with the Equality Commission for Northern Ireland, the Northern Ireland Commissioner for Children and Young People, the Northern Ireland Human Rights Commission, and any others that DE deems appropriate.

The Regulations²¹ also require DE to make provision about the circumstances in which, at the request of a parent or carer, a pupil can be excused from Article 5(1A) education or specified elements of that education, namely, prevention of early pregnancy and access to abortion. This provision is made under Statutory Rule 2023 No. 222 [The Curriculum \(Circumstances in which a Pupil may be Excused from Sexual and Reproductive Health and Rights Education\) Regulations \(Northern Ireland\) 2023](#), which came into effect on 1 January 2024. These Regulations²² provide for a pupil to be excused if a parent makes a

¹⁹ [The Relationships and Sexuality Education \(Northern Ireland\) \(Amendment\) Regulations 2023](#), Regulations 2 and 3

²⁰ As cited immediately above, [Regulation 4](#)

²¹ As cited in footnote 19, [Regulation 2\(3\)\(5\)](#)

²² [The Curriculum \(Circumstances in which a Pupil may be Excused from Sexual and Reproductive Health and Rights Education\) Regulations \(Northern Ireland\) 2023](#), Regulations 3(1) and 3(2)

written request to a school where the parent considers the education is against their wishes:

- Pupils in years 8, 9, 10 and 11 should be excused if a parent makes a written request for their child to be excused from all or specified elements of Article 5(1A) education.
- Pupils in year 12 should be excused if a parent makes a written request for their child to be excused from all or specified elements of Article 5(1A) education and confirm that the pupil does not object to being excused.

Parents' requests must be in writing, addressed to the school principal, identify the pupil to whom it relates, specify whether it relates to all or specified elements of Article 5(1A) education, and confirm which element or elements are contrary to their wishes²³. Parents are not required to provide the school with a reason for excusing their child²⁴.

Where a pupil has been excused from Article 5(1A) education, the excusal remains in force until the end of the school year in which the request was made or, if they have been excused from a specified element, until that education has been completed²⁵. It should be noted that the option to excuse children applies only to the parts of RSE dealing with prevention of early pregnancy and access to abortion, and not to other areas of the RSE curriculum²⁶.

Prior to developing [The Curriculum \(Circumstances in which a Pupil may be Excused from Sexual and Reproductive Health and Rights Education\) Regulations \(Northern Ireland\) 2023](#), DE was required to consult on its legal duty to provide for parents or carers to have their child excused from Article

²³ [The Curriculum \(Circumstances in which a Pupil may be Excused from Sexual and Reproductive Health and Rights Education\) Regulations \(Northern Ireland\) 2023](#), Regulation 3(3)

²⁴ Department of Education, [Circular 2024/1-Guidance on amendments to the Relationships and Sexuality Education \(RSE\) curriculum content](#) (2024) p5

²⁵ [The Curriculum \(Circumstances in which a Pupil may be Excused from Sexual and Reproductive Health and Rights Education\) Regulations \(Northern Ireland\) 2023](#), Regulation 3(4)

²⁶ Department of Education, [RSE Consultation - Consultation Booklet](#) (2023) p2

5(1A) education²⁷. The [DE consultation](#) ran from 1 September to 24 November 2023 and over 13,000 responses were received.

2.1 DE Statutory Guidance

The [Relationships and Sexuality Education \(Northern Ireland\) \(Amendment\) Regulations 2023](#) required DE to issue guidance by 1 January 2024 on the content and delivery of the education required to be provided by Article 5(1A) of the 2006 Order, with a view to ensuring that:

- pupils receive education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion; and
- the education received by pupils is age-appropriate, comprehensive and scientifically accurate.

Schools are required to have regard to the guidance, and the DE may revise it at any time.

[DE Circular 2024/1](#)²⁸ was issued to schools on 1 January 2024 and sets out guidance on the amendments to the RSE curriculum content. The [Relationships and Sexuality Education \(Northern Ireland\) \(Amendment\) Regulations 2023](#) do not change the fact that Boards of Governors and Principals have statutory responsibility to deliver the minimum curriculum content. The guidance highlights that schools continue to have flexibility in how they develop and deliver their taught RSE programme²⁹. They have autonomy over when, how and who is involved in curriculum delivery, aligned with the ethos of the school³⁰. The DE Circular notes the importance of schools ensuring the

²⁷ [The Relationships and Sexuality Education \(Northern Ireland\) \(Amendment\) Regulations 2023](#), Regulation 2(3)(6)

²⁸ Department of Education, [Circular 2024/1-Guidance on amendments to the Relationships and Sexuality Education \(RSE\) curriculum content](#) (2024)

²⁹ As cited immediately above, [p4](#)

³⁰ As cited in footnote 28, [p3](#)

effectiveness of their RSE policy and taught programme through self-evaluation, review and pupil consultation³¹.

The guidance further notes the statutory requirements related to the curriculum³² which provide that the statutory curriculum is "...a balanced and broadly based curriculum which promotes the spiritual, emotional, moral, cultural, intellectual and physical development of pupils...". The guidance highlights that the legislative changes made by the [Relationships and Sexuality Education \(Northern Ireland\) \(Amendment\) Regulations 2023](#) "do not prevent teachers and pupils from discussing and commenting on the moral, ethical or spiritual issues" which may arise in relation to matters such as contraception and abortion "alongside the age-appropriate and comprehensive teaching materials".³³

Circular 2024/1 provides information for schools on the circumstances in which a parent can request to have a pupil excused from the new elements of RSE. It suggests that schools discuss any requests with parents and, as appropriate, the pupil to ensure that the wishes of the parent and child are understood. It highlights that such discussions provide opportunity to outline the benefits of the education and any potential negative effects of withdrawing the child. It is noted that any detrimental effects may be mitigated if the parents propose delivering the specific education to their child at home instead³⁴.

The guidance includes a template for use by parents to request a pupil be excused from Article 5(1A) education or a specified element of it.³⁵

Circular 2024/1 states that a school's RSE policy should be kept under review and updated in light of the introduction of Article 5(1A) education, and that this should be subject to consultation with parents and pupils, and reflective of their

³¹ As cited in footnote 28, [p4](#)

³² [The Education \(Curriculum Minimum Content\) Order \(Northern Ireland\) 2007](#), Schedule 2, Part 1

³³ Department of Education, [Circular 2024/1-Guidance on amendments to the Relationships and Sexuality Education \(RSE\) curriculum content](#) (2024) p3

³⁴ As cited immediately above, [p5](#)

³⁵ As cited in footnote 33, [annex](#)

views. The RSE policy and content to be taught should also be made available to parents and pupils³⁶.

2.2 Support and resources for schools

CCEA provides curricular content and resources to support the teaching and learning of RSE.

CCEA launched an [RSE Hub](#)³⁷ in 2019 which provides guidance, curriculum resources, and sources to support the delivery of RSE. CCEA has also published the [RSE Progression Framework](#)³⁸ which provides a non-statutory progression pathway in RSE from the Foundation Stage to post-16. Circular 2024/1 notes that the RSE Hub is to be relaunched in early 2024 with updated guidance and resources to support teachers to address sensitive issues with their pupils. CCEA is also developing case studies which reflect best practice in RSE, and key stage appropriate resources which use terms related to the legislation and health definitions. The Education Authority (EA) will provide training for teachers and Boards of Governors in respect of the new requirements³⁹.

The guidance states that teachers should co-design and participate in RSE lessons. While schools can choose to use external providers, DE states that the use of external providers should supplement and enhance the curricular teaching of RSE; it should not be a substitute for it⁴⁰.

³⁶ As cited in footnote 33, [p4](#)

³⁷ Council for the Curriculum, Examinations and Assessment, [Relationships and Sexuality Education \(RSE\) Hub](#)

³⁸ Council for the Curriculum, Examinations and Assessment, [Relationships and Sexuality Education Progression Framework](#)

³⁹ Department of Education, [Circular 2024/1-Guidance on amendments to the Relationships and Sexuality Education \(RSE\) curriculum content](#) (2024) p4 and p6

⁴⁰ As cited immediately above, [p6](#)

3 Withdrawal policy and legislation across the EU, UK and the Republic of Ireland

In the EU, most Member States have an education policy framework or a law, which explicitly includes sexuality education or ensures the right of children to education and health promotion knowledge⁴¹. As of November 2019, sexuality education was mandatory in most Member States of the European Union, except for Lithuania, Spain, Italy, Croatia, Slovakia, Hungary, Romania and Bulgaria⁴². Nonetheless, there remains considerable variation in the content, delivery mode and objectives of sexuality education⁴³. Limited teacher training is provided across EU Member States⁴⁴ and monitoring and evaluation is rare⁴⁵.

3.1.1 England

Since September 2020, all primary schools have been required to teach relationships education and all secondary schools must teach relationships and sex education (RSE). This applies to all schools in England, including independent schools.

Parents have the right to request that their child be withdrawn from some or all of the sex education delivered as part of the statutory RSE. The guidance states that, except in exceptional circumstances, the school should respect the parents' request to withdraw their child up to three terms before the child turns 16. After that point, if the child wishes to receive sex education, the school should arrange to provide the child with sex education during one of those

⁴¹ European Parliament, Directorate-General for Internal Policies of the Union, K Michielsen & O Ivanova, [Comprehensive sexuality education: why is it important?](#) (2022) p35

⁴² European Commission, Directorate-General for Employment, Social Affairs and Inclusion, N Picken, [Sexuality education across the European Union: an overview](#) (2020) p5

⁴³As cited immediately above, [p6](#)

⁴⁴ As cited in footnote 41, [p43](#)

⁴⁵ As cited footnote 41, [p44](#)

terms. This does not apply to relationships education or health education from which there is no right to withdraw.⁴⁶

3.1.2 Wales

The Welsh government launched the new curriculum in primary schools in September 2022, and in secondary schools in 2023. As part of the new curriculum, RSE is mandatory for all students, and parents are no longer able to remove children from RSE classes⁴⁷. Prior to this, RSE was not mandatory in primary schools and parents of secondary school children could request that their children were withdrawn from RSE classes.

In May 2022, five parents of children of school age living in Wales won the right to seek a judicial review of the new curriculum. The parents, who were supported in their challenge by Public Child Protection Wales, objected on religious and philosophical grounds to the introduction of RSE without a 'right of excusal', that is, without a parental right to withdraw their child from lessons in which RSE is taught.⁴⁸

In September 2022, the five claimants also sought a temporary injunction to allow them to withdraw their children from mandatory lessons from the start of the new term or stop the rollout of RSE altogether until the judicial review was heard in November 2022. The court refused the application⁴⁹, saying the claimants did not show any evidence of their children being harmed during the requested injunction period.

The judicial review found in favour of the Welsh Government in November 2022, with the presiding judge, Honorable Mrs. Justice Steyn, stating that:

“Openness to a plurality of ideas and the ability to engage sensitively, critically, and respectfully with such debates, which RSE seeks to

⁴⁶ Department for Education, [Relationships Education, Relationships and Sex Education \(RSE\) and Health Education - Statutory guidance](#) (2019)

⁴⁷ The Welsh Government, [Curriculum for Wales: Relationships and Sexuality Education \(RSE\) Code](#) (2022)

⁴⁸ [Sex education: Wales' curriculum legal challenge launched](#). *BBC News*, 16 November 2022

⁴⁹ [Parents' legal bid to ban sex education in schools fails](#). *BBC News*, 1 September 2022

encourage and develop, fully accords with the aim of pluralism in a liberal and democratic state".⁵⁰

3.1.3 Scotland

Relationships, sexual health and parenthood (RSHP) education is taught as part of the health and wellbeing curriculum area of Scotland's Curriculum for Excellence. Aspects of RSHP may also be discussed in other areas of the curriculum. RSHP education continues to be non-mandatory in all types of schools. This means that there is no obligation to provide consistent RSHP education throughout a child's time at school.⁵¹

The Scottish Government published statutory guidance on RSHP education for local authority managed schools in 2014.⁵² The guidance states that schools are advised that it's "good practice" to consult children, young people and parents when developing or reviewing RSHP education programmes.

Parents and carers can withdraw a child from sexual health education lessons after due consideration. But if the child is at secondary school, the guidance states that "young people will often be capable of deciding themselves" whether or not to take part in lessons, depending on "their maturity, understanding, and experience". Their decision should be respected.

3.1.4 Republic of Ireland

Arising from a 2018-19 review of RSE in primary and post-primary schools, the need to update the Social, Personal and Health Education (SPHE) curriculum was identified as a key priority. This updating work began with Junior Cycle SPHE and is now focused on the redevelopment of the Senior Cycle SPHE curriculum.

The proposed content has proved divisive, with several parents' groups concerned about the 'promotion of transgender ideology' to young students. In

⁵⁰ [Sex education: Parents lose legal challenge against curriculum](#). *BBC News*, 22 December 2022

⁵¹ Scottish Alliance for Children's Rights, [State of Children's rights in Scotland](#) (2017)

⁵² Scottish Government, [Conduct of Relationships, Sexual Health and Parenthood Education in Schools](#) (2014)

contrast, some advocacy groups say these issues are ‘core to our human identity’⁵³.

The Minister for Education Norma Foley, confirmed that parents would still have the right to withdraw their children from RSE classes:

“I want to be clear around this: we operate in our schools a spirit of partnership with our parents, the wider section of stakeholders and partners within education. We retain within our schools parental consent at all times for parents to feel that they have freedom to withdraw their students from anything that is happening within a school environment.”⁵⁴

The National Council for Curriculum and Assessment (NCCA), the body responsible for the new curriculum, has noted that requests for withdrawal from specific aspects of SPHE or complete opt-out will require further consideration in the context of implementation of an updated curriculum in which learning in RSE is now integrated across SPHE.⁵⁵

⁵³ [‘Parents will have right to withdraw children from new sex education classes’](#). *Irish Times*, 22 February 2023.

⁵⁴ As cited immediately above

⁵⁵ National Council for Curriculum and Assessment, [Report on the consultation on the draft Junior Cycle SPHE curriculum](#) (2023)