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THE VALUES FOUNDATION

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Retaining Values in RSE: **a Guide for** **Local Authorities**

Retaining Values in RSE: a Guide for Local Authorities

What is RSE and Who is this Guide for?

Relationships Education in primary schools and Relationships and Sex Education (RSE) in secondary schools will be compulsory from September 2020 and Health Education will be compulsory for all schools from September 2020.

This guide is for **Local Authorities in England**.

All LAs have been advised by the Department for Education that “Local Authorities are the first port of call for maintained schools that are experiencing difficulties over Relationships Education/RSE and we expect that Local Authorities will want to take the lead in supporting those schools.”* Hence it is vital that LAs are well versed in schools’ and parents’ rights and responsibilities.

What the LA needs to Know:

The Law, also known as “Regulations”, dictates that pupils must learn about:

- (i) safety in forming and maintaining relationships,
 - (ii) the characteristics of healthy relationships, and
 - (iii) how relationships may affect physical and mental health and well-being, and
- (a) the education is appropriate having regard to the **age** and **religious background** of the pupils.

The Department for Education (DfE) has published **Statutory Guidance** recommending what should be studied within RSE.

Some topics in the DfE Statutory Guidance go **beyond the letter of the law**. In order to advise their schools correctly, it is important that LAs are able to distinguish between what is mandatory and what is recommended, as children from all backgrounds must be catered for. The LA also needs to be able to distinguish between recommendations and resources that are ideologically driven and those that are neutral in this respect.

The DfE has alerted LAs that “The majority of the objections relate to the teaching of lesbian, gay, bisexual and transgender (LGBT) content, particularly in primary schools.”* However, there is **no statutory requirement to teach this content in primary schools** (see Minister for School Standards, Nick Gibb’s comment at end of this document).

* <https://www.gov.uk/government/publications/managing-issues-with-lgbt-teaching-advice-for-local-authorities/primary-school-disruption-over-lgbt-teachingrelationships-education>

The DfE's Guidance clearly states that the teaching of RSE, must be done in an **age appropriate** and developmentally appropriate way and must have **regard for the religious background of the pupils and their families**. It is therefore the responsibility of the Local Authority to ensure schools fulfil their obligations in this respect.

It is anticipated that, from September 2020, when all schools will be teaching RSE, there will be concerns shown by parents. However, as long as the Local Authority is secure in their knowledge of the rights and responsibilities of all parties, as set out in this paper, and have advised schools correctly, they will be able to avoid any disruption to the education of pupils.

The Local Authority must advise schools that:

- **They must select carefully what they teach** from the DfE Guidance and justify their selection regarding age and faith.
- There is **no requirement to teach sex education** in primary school.
- There is **no requirement to teach LGBT content** in primary school.
- Primary and secondary schools **can justifiably make a strong case regarding their choice of topics taking all stakeholders into account**, as long as they fulfil their legal requirements as stated above.
- They must clearly signpost how parents can **opt out of sex education** in secondary school for their child up to 3 terms before the pupil is 16 years of age.
- **Schools with a religious character designation must** create and publish a robust RSE Policy taking into account the school's ethos, cohort and age appropriation.

The Statutory Guidance states that:

“Schools must have regard to the guidance and, where they depart from those parts of the guidance which state that they should, or should not, do something, they will need to have good reasons for doing so.”

- **Schools not having a religious character designation must** create and publish a robust RSE Policy taking into account the school's ethos, stakeholders and age appropriation as well as paying due regard to the sensitivities of individual pupils and their families who hold faith and traditional family values.
- Schools should **consider their cohort realistically** and plan for the individual as well as for year-groups. For example, some pupils will have full access to the internet and need to be educated accordingly whilst some will have limited, or in some cases, negligible access to the internet and also need to be educated accordingly.

- Schools should consider appropriate and sensitive ways of RSE teaching, including **size of groups and teacher capability**.
- Schools must also fulfil their equalities duty but also note that it is **up to the discretion of the school as to whether they teach about same-sex parents**: schools are only obliged, under the **Public Sector Equality Duty** to do so if/when there is a same-sex family in a particular class and then the duty only stretches to that class, not the entire school. This also applies to pupils, parents and teachers in the school.
- Schools must **consult and inform parents** regarding RSE including sharing resources.
- Schools must inform parents:
 - ✓ what pupils will be **learning in RSE** and when
 - ✓ how the school promotes diversity and equality
 - ✓ at what age RSE is taught and why you think this is **age-appropriate**
 - ✓ in secondary schools, how parents can **opt out of sex education** for their child if they wish to
- Schools must **prepare children for life in modern Britain** and need to show how the school's RSE Policy does this whilst retaining the ethos of their school.
- Schools are also obliged to **teach Fundamental British Values** but it is important to note that Fundamental British Values are taken from the "Prevent" guidance wherein there is **no mention of protected characteristics**.

NB: If Ofsted downgrades a school because they are not teaching Protected Characteristics as part of Fundamental British Values, Ofsted is extending its remit by creating its own definition of how to fulfil Fundamental British Values.

So, schools must be advised that **before creating their RSE Policy** and schemes of work:

- ✓ They must ensure they know **what is law and what is guidance**.
- ✓ They **must take into account the background of every child** when planning and teaching RSE.

Parents' Rights

Schools are **obliged to inform parents** of their plans for teaching RSE including providing samples of schemes of work and resources.

Parents have a **legal right to be informed** about what is being taught.

Their opinions must be **taken into consideration**.

Remember: UK law upholds the right of parents to guide the education of their children as fundamental and protected. This is particularly true of educational content which has a moral character; schools **MUST NOT undermine the manner in which parents seek to bring up their children**. Schools **MUST** respect the manner in which parents seek to raise their children in accordance with their own religious or philosophical convictions.

Finally, **some important points:**

1. There is **no obligation for any school to “teach” the Equality Act 2010**.
2. Nick Gibb, Minister for School Standards explained during the Parliamentary Question Period on 25 June 2019, that **primary schools are not required to teach LGBT elements**.¹

Please note: This document is advisory, not legal advice and its content should not replace specific legal advice for organisations or individuals addressing particular circumstances.

¹ <https://hansard.parliament.uk/Commons/2019-06-25/debates/8F61FF43-BA5E-401D-A3AD-3B742236F757/ParentalInvolvementInTeachingEqualityAct>