



BRIEFING PAPER

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Sex and Relationships Education in Schools (England)

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One page briefing

What must be taught and the parental right to withdraw their children

Local authority maintained schools in England are obliged to teach sex and relationships education (SRE) from age 11 upwards, and must have regard to the Government's [SRE guidance](#). Academies and free schools do not have to follow the National Curriculum and so are not under this obligation. If they do decide to teach SRE, they also must have regard to the guidance.

Parents are free to withdraw their children from SRE if they wish to do so. The only exceptions to this are the biological aspects of human growth and reproduction that are essential elements of National Curriculum Science.

Reviews and proposals for change

The position of SRE on the curriculum was considered within the then Government's 2011 internal review of personal, social, health and economic education (PSHE). It was decided that PSHE would remain a non-statutory subject, and the position of SRE remained unchanged.

During the 2010 Parliament concerns were frequently raised about the content, status and quality of SRE. A 2013 Ofsted report found that SRE "required improvement in over a third of schools."

Private Member's Bills have been tabled during both the 2010 and 2015 Parliaments to introduce compulsory SRE (sometimes within proposed statutory PSHE), from Labour and Green MPs. The shadow Education Secretary, Lucy Powell, has written in support of compulsory SRE.

There were also calls from across parties for the Government's SRE guidance, which has been in place since 2000, to be updated. The Coalition Government argued that supplementary advice for schools published by the PSHE Association, the Sex Education Forum and Brook, "[Sex and relationships education \(SRE\) for the 21st century](#)", performed this function.

Education Committee report and letter from committee Chairs

In February 2015 the Commons Education Select Committee recommended that, alongside PSHE, age-appropriate SRE should become a statutory subject in primary and secondary schools, albeit with parents retaining their right to withdraw children. The Government response published in July 2015 did not take forward this recommendation, although it stated that it would be giving further consideration to the Committee's arguments in 2015.

In February 2016 the Education Secretary [confirmed](#) that PSHE would not be made statutory.

Teaching about same-sex marriage

During and following the passage of the *Marriage (Same Sex Couples) Act 2013* there was considerable debate about the implications of the legislation for teachers whose religious beliefs led them to oppose the measure. The then Equalities Minister stated that teachers would be able to describe their belief that marriage is between a man and a woman, while acknowledging that same-sex marriage will be available within the law. Reforms for schools to 'actively promote' British values have provoked further debate in this area.

1. Sex and Relationships Education: what must be taught

All maintained secondary schools must provide sex and relationships education as part of the basic curriculum, and must meet the requirements of National Curriculum Science. Governing bodies and head teachers of maintained primary schools must decide whether sex and relationship education, beyond that set out in National Curriculum Science, should be included in the school's curriculum, and if so what it should consist of and how it should be organised.

The Department for Education (DFE)'s popular questions website provides the following [information](#) on the current position relating to sex and relationship education (SRE) in schools (Updated 12 May 2015):

Sex and relationship education (SRE) is compulsory from age 11 onwards. It involves teaching children about reproduction, sexuality and sexual health. It doesn't promote early sexual activity or any particular sexual orientation.

Some parts of sex and relationship education are compulsory - these are part of the national curriculum for science. Parents can withdraw their children from all other parts of sex and relationship education if they want.

All schools must have a written policy on sex education, which they must make available to parents for free.

In delivering sex education, schools are currently required to have regard to the [Sex and Relationship Education Guidance](#), published in 2000.¹ The current statutory provisions on sex education are contained in sections 403 and 405 of the [Education Act 1996](#) as amended.

The previous Government's Education White Paper, [The Importance of Teaching](#), published in November 2010, stated:

Children need high-quality sex and relationships education so they can make wise and informed choices. We will work with teachers, parents, faith groups and campaign groups, such as Stonewall to make sure sex and relationships education encompasses an understanding of the ways in which humans love each other and stresses the importance of respecting individual autonomy.²

Parents' rights to withdraw a child from SRE

Section 405 of the *Education Act 1996* enables parents to withdraw their children from sex education other than the sex education that is in the National Curriculum (such as the biological aspects of human growth and reproduction that are essential elements of National Curriculum Science).

All schools must have an up-to-date policy on SRE which is made available for inspection and to parents. It must include information about parents' right to withdrawal. The [SRE guidance](#) states:

¹ DfEE, [Sex and relationship education guidance](#), July 2000

² DfE, [The Importance of Teaching](#), November 2010, Pp. 46

5.7 Parents have the right to withdraw their children from all or part of the sex and relationship education provided at school except for those parts included in the statutory National Curriculum...Schools should make alternative arrangements in such cases. The DfEE will offer schools a standard pack of information for parents who withdraw their children from sex and relationship education.³

1.1 Sex and Relationship Education Guidance

As stated in the previous section, schools are currently required to have regard to the [Sex and Relationship Education Guidance](#), published in 2000. For quick reference, some key guidance included within it is reproduced below. This information is not meant to be comprehensive, but instead to give a brief introduction to what the guidance recommends.

Primary schools

1.12 The Department recommends that all primary schools should have a sex and relationship education programme tailored to the age and the physical and emotional maturity of the children. It should ensure that both boys and girls know about puberty and how a baby is born – as set out in Key Stages 1 and 2 of the National Science Curriculum. Section 3 gives further information on what should be taught at these stages and how this should be rooted in the PSHE framework.

1.13 All children, including those who develop earlier than the average, need to know about puberty before they experience the onset of physical changes. In the early primary school years, education about relationships needs to focus on friendship, bullying and the building of self-esteem. [...]

Secondary schools

1.17 Secondary schools should include in their policy details on how they provide a programme as part of the PSHE framework in addition to the National Science Curriculum topics. Schools should set sex education within a broader base of self-esteem and responsibility for the consequences of one's actions.

1.18 Schools should set a framework for establishing what is appropriate and inappropriate in a whole-class setting and how to deal with individual questions. [...]

Relationships

1.21 Young people, when asked about their experiences of sex education at school, often complain about the focus on the physical aspects of reproduction and the lack of any meaningful discussion about feelings, relationships and values. Sex and relationship education set within the framework for PSHE across the four key stages will significantly redress that balance. It will help young people to respect themselves and others, and understand difference. Within the context of talking about relationships, children should be taught about the nature of marriage and its importance for family life and for bringing up children. The Government recognises that there are strong and mutually supportive relationships outside marriage. Therefore,

³ *Ibid*, Pp. 26

children should learn the significance of marriage and stable relationships as key building blocks of community and society. Teaching in this area needs to be sensitive so as not to stigmatise children on the basis of their home circumstances. [...]

Sexual identity and sexual orientation

1.30 It is up to schools to make sure that the needs of all pupils are met in their programmes. Young people, whatever their developing sexuality, need to feel that sex and relationship education is relevant to them and sensitive to their needs. The Secretary of State for Education and Employment is clear that teachers should be able to deal honestly and sensitively with sexual orientation, answer appropriate questions and offer support. There should be no direct promotion of sexual orientation.

1.31 Sexual orientation and what is taught in schools is an area of concern for some parents. Schools that liaise closely with parents when developing their sex and relationship education policy and programme should be able to reassure parents of the content of the programme and the context in which it will be presented.

1.32 Schools need to be able to deal with homophobic bullying. Guidance issued by the Department (Social Inclusion: Pupil Support Circular 10/99) dealt with the unacceptability of and emotional distress and harm caused by bullying in whatever form – be it racial, as a result of a pupil's appearance, related to sexual orientation or for any other reason. [...]

Puberty

2.5 Boys and girls need to be prepared for puberty. Schools will need to plan the appropriate age to do so, in consultation with parents. [...]

Menstruation

2.7 The onset of menstruation can be alarming for girls if they are not prepared. Research shows that about a third of girls are not told about periods by their parents and 10% receive no preparation at all before their first period. As with education about puberty, programmes should include preparation for menstruation.

2.8 Schools should also make adequate and sensitive arrangements to help girls cope with menstruation and with requests for sanitary protection. [...]

Contraception

2.10 Knowledge of the different types of contraception, and of access to, and availability of contraception is a major part of the Government's strategy to reduce teenage pregnancy. Effective sex and relationship education in secondary schools has an important role to play in achieving this.

2.11 Trained staff in secondary schools should be able to give young people full information about different types of contraception, including emergency contraception and their effectiveness. Pupils may wish to raise further issues with staff arising from discussion in the classroom. Trained teachers can also give pupils – individually and as a class – additional information and guidance on where they can obtain confidential advice, counselling and, where necessary, treatment. [...]

Abortion

2.14 38% of teenage pregnancies ended in abortion in 1998 – almost 39,000 abortions. There are strongly held views and religious beliefs about abortion and some schools will apply a particular religious ethos through their sex and relationship education policy to the issue which will enable pupils to consider the moral and personal dilemmas involved. The religious convictions of pupils and their parents should be respected.

2.15 It is all too easy to create a classroom debate in which pupils' views become polarised and miss the purpose of sex and relationship education in preparing pupils for the responsibilities and challenges of adult life. When abortion is covered within a programme, the challenge is to offer young people the opportunity to explore the dilemmas, enable them to know and understand about abortion, and develop the communication skills to discuss it with parents and health professionals.

2.16 However, the key task for schools is, through appropriate information and effective advice on contraception and on delaying sexual activity, to reduce the incidence of unwanted pregnancies.⁴

1.2 Academies and Free Schools

Academies and Free Schools do not have to follow the National Curriculum and so are not under the same statutory obligations as maintained schools. As such, academies are not obliged to teach sex and relationship education, although if they do, they must have regard to the SRE guidance issued by the Secretary of State. This issue was raised in the House of Lords in 2013:

Asked by **Baroness Scotland of Asthal**

To ask Her Majesty's Government what is the current position with regard to ensuring primary and secondary school pupils receive comprehensive sex education. [HL2614]

The Parliamentary Under-Secretary of State for Schools (Lord Nash) (Con): Sex and relationship education (SRE) is compulsory in maintained secondary schools. When teaching sex education, it is a statutory requirement for schools (including academies through their funding agreements) to have regard to the Secretary of State's Sex and Relationship Education Guidance. Schools should use the guidance to build on the content outlined in the national curriculum for science. Primary schools are not required to provide SRE beyond that which is outlined in the national curriculum for science, but many primary schools do so—and they must have regard to the guidance.⁵

The following exchange and response from Lord Nash, from a Lords debate earlier in that year provides further clarification:

Baroness Brinton: My Lords, I am sure that the House is pleased that the Government have put more about sex and relationships into the curriculum, but surely some concerns must remain if academies can choose not to teach it. How are the Government going to ensure that academies teach young people about sex and relationships?

⁴ DfEE, [Sex and relationship education guidance](#), July 2000, Pps.9-13

⁵ [HL Deb 21 Oct 2013: Column WA124](#)

Lord Nash: My noble friend is quite right that academies are not obliged to teach sex education, although, if they do, they have to have regard to the Secretary of State's guidance on these matters. I repeat the point that Ofsted inspects for all social, moral and cultural provision in schools, and we will be ensuring that it focuses on this point.⁶

The [Model Funding Agreement for Free Schools](#) provides an example of the arrangements set up by Academies and Free Schools regarding SRE. It states that:

The Academy Trust shall have regard to any guidance issued by the Secretary of State, further to section 403 of the Education Act 1996, on sex and relationship education to ensure that children at the Academy are protected from inappropriate teaching materials and they learn the nature of marriage and its importance for family life and for bringing up children. The Academy Trust shall also have regard to the requirements set out in section 405 of the Education Act 1996 which shall apply to the Academy as if it were a maintained school.

1.3 DFE Review of Personal, Social, Health and Economic Education

In July 2011, the DFE launched an internal review of personal, social, health and economic education (PSHE), including sex and relationship education.⁷ The review had been announced in a PQ response the previous year:

Nick Gibb: [holding answer 29 November 2010]: Sex and relationships education is not currently part of the national curriculum and will not be within scope of the national curriculum review. However, we intend to conduct an internal review to determine how we can support schools to improve the quality of all personal, social, health and economic (PSHE) education teaching, giving teachers the flexibility to use their judgement about how best to deliver PSHE education, including sex and relationships education.⁸

The then Government [announced](#) the outcome of this internal review in March 2013:

Elizabeth Truss: PSHE overall will remain a non-statutory subject. To allow teachers the flexibility to deliver high-quality PSHE we consider it unnecessary to provide new standardised frameworks or programmes of study. Teachers are best placed to understand the needs of their pupils and do not need additional central prescription.

However, while we believe that it is for schools to tailor their local PSHE programme to reflect the needs of their pupils, we expect schools to use their PSHE education programme to equip pupils with a sound understanding of risk and with the knowledge and skills necessary to make safe and informed decisions.

Schools should seek to use PSHE education to build, where appropriate, on the statutory content already outlined in the

⁶ [HL Deb 8 July 2013 c6](#)

⁷ Department for Education, [Review of Personal, Social, Health and Economic Education](#), 21 July 2011

⁸ HC Deb 29 Nov 2010 c728W

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national curriculum, the basic school curriculum and in statutory guidance on: drug education, financial education, sex and relationship education (SRE) and the importance of physical activity and diet for a healthy lifestyle.

We will provide grant funding to the PSHE Association to work with schools to support them in developing their own PSHE curricula and improve the quality of teaching. The association will focus on signposting schools to high quality resources, and on expanding their chartered teacher of PSHE programme. We have also asked the association to promote the teaching of consent as part of SRE, in line with the statutory guidance for that subject.⁹

A summary report, discussing the responses the Government received to the consultation was published alongside this written statement.¹⁰

The following PQ response from September 2013 sets out the position of sex and relationship education within the teaching of PSHE:

Mr Ward: To ask the Secretary of State for Education what changes his Department intends to make to how sex and relationship education is taught under the PSHE curriculum. [168460]

Elizabeth Truss: The Department has considered the role of sex and relationship education (SRE) as part of its review of personal, social, health and economic (PSHE) education. Experts are best placed to provide schools with up-to-date materials and advice on changing technologies that fit within the framework of our sex and relationship education guidance. This means schools can always access the most current advice and guidance on every emerging issue.

The PSHE Association has recently updated its guidance for schools on developing and improving their SRE policies. The Sex Education Forum also has a range of useful resources to help schools improve their SRE programmes, as do other organisations which seek to raise standards in SRE education.¹¹

More information on PSHE is available in the Library briefing [Personal, social, health and economic education in schools \(England\)](#), CBP 7303.

⁹ HC Deb 21 Mar 2013 c52WS

¹⁰ Department for Education, [Consultation on PSHE education: Summary report](#), 22 March 2013

¹¹ HC Deb 12 Sep 2013 c813W

2. Reviews, inquiries and proposals for change

2.1 2008 Review of SRE and the Children, Schools and Families Act 2010

A review of [sex and relationship education in schools](#) took place in 2008. As the webpage for the report states, the external steering group that was established to take forward the commitment in the Children's Plan to: 'Review the delivery of Sex and Relationships Education (SRE) in schools'. It summarises how the review was organised, what evidence was considered to inform the decisions, the key challenges that were identified and the recommendations that are being made to improve SRE delivery.¹²

The report's recommendation that PSHE be made part of the curriculum was part of the *Children, Schools and Families Bill, Session 2009-10*. The [Library research paper 09/95](#) on the Bill sets out the proposals of the then Labour Government. The PSHE provisions and sex education generally were discussed during the Public Bill Committee – pp 13 and 14 of the [Library research paper 10/12](#) give an account of the debates. However, many of the key provisions of the Bill were removed during the consideration of Lords Amendments on 8 April 2010 immediately before the dissolution of Parliament for the general election. The provisions removed included the introduction of compulsory PSHE, and the provision that all children receive at least one year of sex and relationship education. Incidentally, the provisions in the Bill that did survive are now contained in the [Children, Schools and Families Act 2010](#).

2.2 National Curriculum Review 2013

The Coalition Government published proposals for a new National Curriculum in February 2013; the initial consultation on these closed in April 2013. A framework document setting out the proposed National Curriculum for all subjects and key stages (except for key stage 4 English, maths and science) was published on 8 July 2013, and the Government consulted on the draft order to bring the changes into effect. This consultation closed on 8 August 2013.

On 11 September 2013 the Government published a [Summary report of the consultation on the new programmes of study and attainment targets from September 2014](#)¹³ and a statutory framework for the [National Curriculum from Key Stages 1 to 4](#), as well both [primary](#) and [secondary](#) curriculums effective from September 2014.¹⁴

¹² External Steering Group, [Review of Sex and Relationship Education \(SRE\) in Schools A report by the External Steering Group](#), 2008.

¹³ Department for Education, [Reforming the national curriculum in England. Summary report of the July to August 2013 consultation on the new programmes of study and attainment targets from September 2014](#), 11 September 2013

¹⁴ All documents available on gov.uk, [National Curriculum](#) [accessed 10 October 2014]

Concerns were raised during the consultation process about the amount of SRE included in the revised curriculum. The following exchange from a House of Lords debate in July, when the proposed Curriculum was published, provides an indication of the concerns raised and also the then Government's response:

Asked by Baroness Gould of Potternewton

To ask Her Majesty's Government which organisations and individuals have challenged their proposed changes to sex education.

The Parliamentary Under-Secretary of State for Schools

(Lord Nash): My Lords, as part of the national curriculum review, the Government received representations from organisations and individuals on the draft curriculum for science, which includes information on reproduction and the human life cycle. A number of organisations, including the Sex Education Forum, were signatories to a letter to the *Times* on 15 April outlining concerns that the science programme of study omitted detail on reproduction and growth. I assure noble Lords that we have taken their representations on board, and revised programmes for study have been published this morning.

Baroness Gould of Potternewton: I thank the Minister for his reply. I have some inkling of what is in the Statement, although I look forward to reading the document in full. Does he accept that the proposed watering down of the biological sex education content within that document means that many pupils will leave primary school with little knowledge of the human life cycle? Within that context, does the document state explicitly that the menstrual cycle shall be taught without details of hormones? Can the Minister indicate how that is going to be monitored in schools? If a teacher does in fact mention hormones, are they likely to be disciplined?

Lord Nash: My Lords, in the new curriculum there is as much, if not more, about reproduction and the life cycle as in the previous curriculum. Key stage 2 science includes changes experienced in puberty, but this Government believe that it is right that teachers should make the final decision about when and how that content is covered. Of course, Ofsted inspects to ensure that pupils receive the right cultural, moral and social experience.

Baroness Walmsley: How many young people themselves have been consulted about the content of this curriculum? If a lot of young people had been, I am sure they would have told the Government that they want to know the information in time, before the hormonal changes take place. Timeliness is related not only to puberty but to contraception, sexual health and the prevention of unwanted teenage pregnancy.

Lord Nash: My noble friend is quite right in her observations. The non-statutory notes and guidance specifically say that pupils should draw a timeline to indicate stages in the growth and development of humans, and should learn about the changes experienced in puberty.^{15, 16}

¹⁵ [HL Deb 8 Jul 2013 c4-5](#)

¹⁶ Government statement on the National Curriculum available at [HC Deb 8 Jul 2013 c1-2WS](#)

2.3 Ofsted report on PSHE and the teaching of SRE 2013

In May 2013, Ofsted published a report on PSHE in primary and secondary schools in England, [Not yet good enough](#).¹⁷ The report raised concerns about the teaching of SRE:

Sex and relationships education required improvement in over a third of schools. In primary schools this was because too much emphasis was placed on friendships and relationships, leaving pupils ill-prepared for physical and emotional changes during puberty, which many begin to experience before they reach secondary school. In secondary schools it was because too much emphasis was placed on 'the mechanics' of reproduction and too little on relationships, sexuality, the influence of pornography on students' understanding of healthy sexual relationships, dealing with emotions and staying safe.¹⁸

The Ofsted report has been raised during questions in the House of Lords. The following excerpts were the most relevant to the teaching of SRE:

Asked By **Baroness Massey of Darwen**

To ask Her Majesty's Government what is their assessment of the report by Ofsted *Not Yet Good Enough: Personal, Social, Health and Economic Education in Schools*, published on 1 May.

The Parliamentary Under-Secretary of State for Schools

(Lord Nash): My Lords, the Government are grateful for Ofsted's report, which provides an important and valuable analysis of the strengths and weaknesses of PSHE provision in this country. We encourage all schools to focus on the areas for improvement outlined in the report and, in doing so, to access best practice identified by Ofsted.

[...]

Baroness Howe of Idlicote: My Lords, the report says that improvement in the delivery of the sex and relationship side of PSHE is needed in as many as a third of schools; and, worse, that this means that particularly sensitive issues, such as mental health, sexuality, domestic violence and pornography, are either receiving too little attention or are frankly just being omitted completely because of teacher embarrassment. What steps are the Government proposing to ensure that teachers involved will in future have the necessary skills to teach these important subjects?

Lord Nash: The noble Baroness is quite right that we need to up our game in this regard, particularly in relation to internet pornography. As noble Lords will know, quite a lot is going on in relation to the internet at the moment. SRE in particular is a vital part of training, and we hope that the Ofsted examples will improve that. The draft science curriculum includes clear requirements for pupils to be taught about their bodies, physical development and reproduction.

[...]

¹⁷ Ofsted, [Not yet good enough: personal, social, health and economic education in schools](#), May 2013

¹⁸ *Ibid*, p6-7

Baroness Hughes of Stretford: My Lords, the worldwide campaign against violence towards women, along with recent criminal cases, has highlighted the danger that internet pornography presents to children and young people. The Children’s Commissioner’s inquiry shows that many young people are exposed to internet pornography through their schools and their friends. What guidance have the Government issued to schools to help protect children from exposure to internet pornography? Is this issue not a really good example of why we now urgently need statutory PSHE?

Lord Nash: I entirely agree with the noble Baroness’s point about the danger of internet pornography, which is a much bigger issue than just in schools. We are working with the industry, through the UK Council for Child Internet Safety, to make it easier than ever for harmful and inappropriate internet content to be filtered from home broadband and all devices. The top five ISPs have committed to having parental controls in place by the end of 2013. On 18 June, the Secretary of State for Culture, Media and Sport will meet internet businesses to see what more they can do to tackle illegal online pornography. Further work is also going on in this regard.¹⁹

2.4 Fresh proposals for compulsory SRE and to update Sex and Relationship Education Guidance

Amendment to *Children and Families Bill* (2013)

During Report Stage of the *Children and Families Bill* in the House of Commons in June 2013,²⁰ an amendment (New Clause 20) was tabled by Lisa Nandy, Sharon Hodgson, Stella Creasy, Diana Johnson and Caroline Lucas, to ensure that sex and relationship education be made available to all children across the country. Speaking to the new clause, Lisa Nandy said that:

When we scrutinised the Bill on Second Reading, my hon. Friend the Member for Washington and Sunderland West (Mrs Hodgson) and I said that it would come to be characterised as much by what was not in it as what was. That is the motivation behind our new clause 20, which would ensure that sex and relationship education is available to all children across the country. The nation has been shocked by child grooming scandals where young girls have been systematically exploited by older men—often men who they thought were taking care of them.

Research by the Children’s Commissioner has found that far too many young people—boys and girls—do not know what a good relationship looks like. Worryingly, it also found that many of them did not even understand the concept of consent. Our view is that we are failing to equip young people with the knowledge, skills and resilience they need to keep themselves safe. We must do much more to tackle child abuse, but more importantly we must prevent it from happening in the first place.

Young people are increasingly exposed to risks online. We think that the question is not whether we can afford to talk to them about issues as difficult as this, but whether we can afford not to.

¹⁹ [HL Deb 11 Jun 2013 c1512-1513](#)

²⁰ Now the *Children and Families Act 2014*.

We think that all children should have the opportunity to access age-appropriate sex and relationship education. In a departmental report on personal, social, health and economic education, young people said that they valued the chance to express views safely and ask questions, and felt that that had improved their relationship with others. We believe that parents should retain the right to withdraw children aged 15 or under because they know their children best, but equally we know that the vast majority of parents would like their children to have access to sex and relationship education. For children whose parents do not talk to them about these issues, this could be critical in keeping them safe, especially given that a third of girls say that they have experienced unwanted touching. We are keen for the Government to support our proposed new clause 20.²¹

Responding for the then Government, Edward Timpson said that

On personal, social and health education, we all recognise that this is an important issue, but we do not have unanimity on what constitutes the best approach. The expectation that all schools should teach PSHE is outlined in the introduction to the framework of the proposed new national curriculum. It is not a statutory requirement, however, as we strongly believe that teachers need the flexibility to use their professional judgment to decide when and how best to provide PSHE in their local circumstances. The Government do not believe that the right of parents to withdraw their children from sex and relationship education should be diminished in the way proposed. We see no need to amend the existing legislation, which provides a clear and workable model for schools and parents. Moreover, the new provision would place a disproportionate burden on teachers, who would have to make and defend decisions on what constitutes “sufficient maturity”—²²

New clause 20 was defeated on a division by 303 votes to 219.²³ An amendment to the Bill to require a review and update of SRE guidance was also been tabled during the Bill’s Report Stage in the House of Lords.²⁴

Calls for updated guidance

In September 2013, there were calls reported in the press from several MPs, including the then Deputy Prime Minister, Nick Clegg, for the SRE statutory guidance to be updated. The guidance has been in place since 2000 and the calls for it to be updated focused on the rise of the internet and social media since that time. See:

- [More Conservative MPs back Telegraph better sex education campaign](#), *Telegraph*, 4 September 2013
- [Update sex education guidance to schools, says Clegg](#), *BBC News Online*, 5 September 2013
- [Dame Tessa Jowell supports The Telegraph's Wonder Women better sex education campaign](#), *Telegraph*, 6 September 2013

²¹ [HC Deb 11 June 2013, col 255](#)

²² *Ibid.*, c267

²³ *Ibid.*, c270

²⁴ House of Lords, [Amendments tabled to the Children and Families Bill](#) [accessed 12 December 2013]

There were also calls in December 2013 for NICE to develop [modernised sex education programmes](#) that encompassed the role of sex in a loving relationship.²⁵

Private Member's Bills and other parliamentary activity

In July 2014, Caroline Lucas's [Personal, Social, Health and Economic Education \(Statutory Requirement\) Bill 2014-15](#) was presented to Parliament. The Bill did not receive a Second Reading.

During an adjournment [debate](#) on 14 October 2014, Caroline Lucas raised the issue of updating the existing SRE guidance. The Minister, Nick Gibb, responded:

The hon. Lady said that the guidance on sex and relationships education is becoming outdated. I welcome the supplementary advice for schools, "[Sex and relationships education \(SRE\) for the 21st century](#)", which was published recently by the PSHE Association, the Sex Education Forum and Brook. The advice helpfully addresses the changes in technology and legislation since 2000, and equips teachers to help protect children and young people from inappropriate online content and online bullying, harassment and exploitation.²⁶

In October 2014, Diana Johnson presented the [Sex and Relationships Education \(Curriculum\) Bill 2014-15](#), to include SRE in the National Curriculum. The full Bill was not published and did not receive a Second Reading.

In July 2015, Caroline Lucas presented a new [Personal, Social, Health and Economic Education \(Statutory Requirement\) Bill 2015-16](#), which would make PSHE, including SRE, compulsory in all state-funded schools. The Bill is due to have its Second Reading in the Commons in January 2016.

Shadow Education Secretary support

In December 2015, the shadow Education Secretary, Lucy Powell, published an article in the *Independent* in support of statutory SRE. Writing following the publication of a report from the University of Lancaster which found a large rise in the numbers of newborn babies being taken into care,²⁷ Lucy Powell stated that:

With each new piece of research, it becomes harder to fathom how the Government can maintain its current position on refusing to ensure that all children in state-funded schools are taught age appropriate sex and relationships education.²⁸

²⁵ British Medical Journal, [Experts call for NICE to resume work on sex education halted by the coalition government](#), 3 December 2013

²⁶ HC Deb 14 Oct 2014 c280

²⁷ K. Broadhurst et al., [Connecting Events in Time to Identify a Hidden Population: Birth Mothers and Their Children in Recurrent Care Proceedings in England](#), *British Journal of Social Work* (2015) 1-20; reported in BBC News, ['Huge rise' in newborn babies subject to care proceedings](#), 14 December 2015

²⁸ Independent, [If sex education isn't made compulsory, newborn babies from teenage mothers will keep being taken into care](#), 16 December 2015

2.5 Education Committee Inquiry 2014-15

The House of Commons Education Select Committee launched an inquiry into PSHE and also SRE in schools on 23 April 2014. The [call for evidence](#) requested views on the following topics:

- Whether PSHE ought to be statutory, either as part of the National Curriculum or through some other means of entitlement.
- Whether the current accountability system is sufficient to ensure that schools focus on PSHE.
- The overall provision of Sex and Relationships Education in schools and the quality of its teaching, including in primary schools and academies.
- Whether recent Government steps to supplement the guidance on teaching about sex and relationships, including consent, abuse between teenagers and cyber-bullying, are adequate.
- How the effectiveness of SRE should be measured.

The Committee published its report, [Life lessons: PSHE and SRE in schools](#), on 17 February 2015. The report made the following key recommendations relating to SRE:

- The Department for Education should develop a work plan for introducing age-appropriate PSHE and SRE as statutory subjects in primary and secondary schools.
- All schools should be required to run a regular consultation with parents on the school's SRE provision.
- The parental right to withdraw their child from elements of SRE should be retained.
- The Government should formally endorse and issue the SRE guidance produced by Brook, the Sex Education Forum and the PSHE Association. It should also promote this more actively to schools and governors.
- SRE should be renamed Relationships and Sex Education – RSE – to emphasise the relationships element of the subject.²⁹

The [Government response](#) to the report was published in July 2015. In particular:

- The Government did not indicate that it would make PSHE or SRE statutory, although it intended to make “significant progress” in improving PSHE during this Parliament, and would “consider in full” the arguments put forward by the Select Committee as part of this work before reporting back later in 2015;
- The Government said there was a “range of good quality advice that has been developed by the voluntary sector in relation to PSHE and SRE”, and that it would continue to work with the sector to review the advice and guidance that currently exists;
- The Government did not believe it necessary to change the “well understood” label of SRE.³⁰

²⁹ House of Commons Education Select Committee, [All schools should have to provide PSHE and SRE](#), 17 February 2015

³⁰ Department for Education, [Government response: Life lessons: PSHE and SRE in schools](#), Cm 9121, July 2015

The Chair of the new Education Committee, Neil Carmichael, was [critical](#) of the response:

Ministers entirely sidestep the call made by MPs in the closing months of the last Parliament to give statutory status to PSHE.

They also reject or brush over nearly every other recommendation made by the previous Education Committee in their key report published five months ago.³¹

Joint letter from select committee Chairs

In January 2016, the Chairs of four Commons select committees – education, health, home affairs and business, innovation and skills – [wrote](#) to the Education Secretary, citing committee reports and statements from the Children’s Commissioner and the Chief Medical Officer, in support of statutory PSHE and SRE.

The letter stated that it was “clear to the four of us that there is a need to work towards PSHE and SRE becoming statutory in all schools.”³²

Government decision not to make PSHE statutory

In February 2016, Nicky Morgan [wrote](#) to the Education Committee Chair to state that PSHE would not be made statutory:

The vast majority of schools already make provision for PSHE and while the Government agrees that making PSHE statutory would give it equal status with other subjects, the Government is concerned that this would do little to tackle the most pressing problems with the subject, which are to do with the variable quality of its provision, as evidenced by Ofsted’s finding that 40% of PSHE teaching is less than good. As such, while we will continue to keep the status of PSHE in the curriculum under review, our immediate focus will be on improving the quality of PSHE teaching in our schools.³³

The letter also stated that the DfE would be working with a group of leading headteachers and practitioners in the following months to produce an action plan and recommendations for improving PSHE, including publishing a comprehensive PSHE toolkit for schools.

Neil Carmichael, the Chair of the Education Committee, was [quoted](#) in *Schools Week* stating that he was “disappointed that the government is not going as far as the committee would like but pleased they are working on an action plan with the profession to improve the teaching of PSHE.”³⁴

The PSHE Association was [strongly critical](#) of the decision, with the Association’s Chief Executive, Joe Hayman, describing it as “an appalling failure,” and stating that:

³¹ House of Commons Education Select Committee, [Government response to sex education report is “feeble”](#), 16 July 2015

³² Education Committee, [Letter from Neil Carmichael MP, Dr Sarah Wollaston MP, Rt Hon Keith Vaz MP, and Iain Wright MP, to Rt Hon Nicky Morgan MP](#), 8 January 2016

³³ Education Committee, [Letter from Rt Hon Nicky Morgan MP to Neil Carmichael MP](#), 10 February 2016

³⁴ Schools Week, [Government rules out making PSHE and SRE statutory](#), 10 February 2016

What is most baffling about this decision is that the Government has a range of objectives it seeks to achieve through PSHE education, including teaching pupils to stay safe online, promoting children and young people's mental health and preventing radicalisation, child sexual exploitation and violence against women and girls. Its decision not to address a status quo in which these issues are addressed by untrained teachers in inadequate curriculum time – or left off the curriculum altogether – is self-defeating and leaves vulnerable young people at risk.³⁵

The letter was also discussed in a House of Lords debate on the day of its publication – see [HL Deb 10 Feb 2016 c2233-2236](#).

³⁵ PSHE Association, [Statement on government decision to reject statutory status for PSHE education](#), 10 February 2016

3. Reforms to Independent School Standards; teaching about same-sex marriage

3.1 Background

During the passage of the *Marriage (Same Sex Couples) Bill* there was considerable debate about the implications of the legislation for teachers in schools. The then Equalities Minister, Maria Miller, made a statement in December 2012 on this issue:

Mr Julian Brazier (Canterbury) (Con): Will my right hon. Friend reassure us that whatever is announced tomorrow, no teacher will face prosecution or civil action as a result of espousing a Christian view of marriage?

Maria Miller: My hon. Friend is right to raise this issue, which has been a concern for many of our constituents. I can confirm that nothing will change what children are taught. Teachers will be able to describe their belief that marriage is between a man and a woman, while acknowledging that same-sex marriage will be available. It is important to reassure people. There is a great deal of what perhaps one could call scaremongering. It is important that teachers and faith schools are aware that they will continue to enjoy the same situation as they do now.³⁶

The Equalities and Human Rights Commission has published a guidance document, [The Marriage \(Same Sex Couples\) Act 2013: The Equality and Human Rights Implications for the Provision of School Education](#). This was updated in June 2014, and states that schools are not required to *promote* same-sex marriage:

Teaching about marriage must be done in a sensitive, reasonable, respectful and balanced way. Teachers are subject to professional requirements, the school curriculum, school policies, and anti-discrimination duties towards colleagues and pupils.

No school, or individual teacher, is under a duty to support, promote or endorse marriage of same sex couples. Teaching should be based on facts and should enable pupils to develop an understanding of how the law applies to different relationships. Teachers must have regard to statutory guidance on sex and relationship education, and to meet duties under equality and human rights law.

Subject to the above, nothing in the Act affects the rights of schools with a religious character to continue to teach about marriage according to their religious doctrines or ethos. Any views expressed about marriage of same sex couples, by governors, teachers, other school staff, parents and pupils, may reflect the religious ethos of the school.

Governors, teachers and non-teaching staff in schools, parents and pupils, are free to hold their own religious or philosophical beliefs about marriage of same sex couples. These rights are not limited by anything in the Act, education law, or equality and human rights law.

³⁶ [HC Deb 10 December 2012, c 31](#)

Pre-existing parental opt-out rights in respect of sex and relationship education remain unaffected by the Act.³⁷

3.2 Reforms to the independent school standards regulations

The Coalition Government made reforms to the regulatory framework for free schools, academies, and independent schools. Some campaign groups, including the Coalition for Marriage, interpreted the reforms as meaning that schools would be required to actively promote same sex marriage.

During July and August 2014, the then Government consulted on making changes to the *Education (Independent School Standards) Regulations 2010 (SI 2010/1997)*, as amended. The [consultation document](#) explained the intention behind the planned changes (which are part of wider reforms):

The proposed changes to Part 2 [of Schedule 1 to the 2010 Regulations] are aimed at making it clear to independent schools that the proprietor must actively promote the fundamental British values that are set out in section 1.1(c) above and that schools must actively promote the specified principles, including furthering tolerance and harmony between different cultural traditions and encouraging respect for democracy. A minimum approach, for example putting up posters on a notice board and organising an occasional visit to places of worship would fall short of 'actively promoting'. Schools will be expected to focus on, and be able to show how their work with pupils is effective in embedding fundamental British values. 'Actively promote' also means challenging pupils, staff or parents expressing opinions contrary to fundamental British values.

The new requirement for schools to actively promote principles which encourage respect for persons with protected characteristics (as set out in the Equality Act 2010) is intended to allow the Secretary of State to take regulatory action in various situations: for example where girls are disadvantaged on the grounds of their gender; failure to address homophobia; or where prejudice against those of other faiths is encouraged or not adequately challenged by the school.

We intend to update and reissue the current guidance on this standard to reflect these changes.³⁸

Subsequently, the then Government laid amending regulations – the [Education \(Independent School Standards\) \(England\) \(Amendment\) Regulations 2014 \(SI 2014/2374\)](#), which came into force on 29 September 2014. The [Explanatory Memorandum](#) to the amending regulations addresses some of the concerns that were raised during the consultation period:

8.1 The proposed changes made by these Regulations were subject to a six-week consultation from 23 June to 4 August. This resulted in 1462 responses. Of these 909 were in support of a campaign that claimed the effect of the changes would be,

³⁷ EHRC, [The Marriage \(Same Sex Couples\) Act 2013: The Equality and Human Rights Implications for the Provision of School Education](#), Pg 2-3

³⁸ DfE, [Proposed New Independent School Standards](#), 23 June 2014, Pps. 6-7

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amongst other things, to: introduce new values; extend the equality agenda; discriminate against Christianity; and undermine religious freedoms. This is not correct. The fundamental British values are not new. They were defined in the government's 2011 Prevent Strategy and have been part of the Independent School Standards since the beginning of 2013.

8.2 In relation to equality legislation, the proposals are that schools should encourage pupils to respect other people, even if they do not agree with them. This does not extend equality requirements or discriminate against Christianity or religious freedoms. The amended standard would not require a school to do anything that they are not currently required to do by the Equality Act 2010 (which applies to independent schools).

8.3 Of the remaining responses there were 516 on whether the changes to the SMSC [spiritual, moral, social and cultural] standard are required to ensure the active promotion of fundamental British values and respect for other people. A significant number of respondents indicated that they disagreed with the proposed changes, but analysis of the related comments revealed that this was because of misunderstanding the effect or raising issues that were not part of the consultation. For example, some responses questioned the definition of the fundamental British values and requested that this be opened up for further debate; others maintained that the changes extend the equality agenda and will result in the marginalisation of Christianity; and others considered that the changes are not necessary, that the standards were only amended in January 2013, and that many schools are already doing this.

8.4 The Department has not made any changes to the proposed revision to the SMSC standard as a result of the consultation. [...]

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Neither the consultation document nor the Explanatory Memorandum to the amending regulations specifically mention the teaching of same sex marriage.

A [legal advice note](#) on the new regulations prepared by John Bowers QC for the Christian Institute, and published on the Institute's website argues in its conclusion:

- a. It is a small step to elide the respect for a person required by the amended Regulations to respecting the beliefs of the group to which that person belongs, and in effect to become a requirement to promote the protected characteristics themselves.
 - b. There is a danger with these proposals that the curriculum in independent school becomes politicized because respect for some protected characteristics may be highly contentious; in effect the seal on the curriculum (created by section 89(2) of the Equality Act 2010) will be thereby broken. To mix the metaphor, a Rubicon preserved by successive governments will be crossed.
 - c. The danger of litigation is exacerbated by the vagueness in the proposals arising from the concept of *active* promotion.
41. The inevitable result is to open teachers up to increased scrutiny, pressures and complaints. There is a real risk of major

³⁹ [Explanatory Memorandum to the Education \(Independent School Standards\) \(England\) \(Amendment\) Regulations 2014](#), SI 2014/2374, Pp 2-3

litigation over what happens in the classroom. Further the contents may undermine their academic freedom.⁴⁰

An [Impact Assessment](#) on the regulations was subsequently published by the then Government in December 2014.⁴¹

⁴⁰ Christian Institute website download, [Advice on the effect of proposed new independent school standards](#), published 3 October 2014, Pp 17-18.

⁴¹ Final Stage IA. [The Education \(Independent School Standards\) \(England\) \(Amendment\) Regulations 2014 and the Education \(Independent School Standards\) Regulations 2014](#)

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