

WELSH GOVERNMENT INTEGRATED IMPACT ASSESSMENT

CURRICULUM FOR WALES 2022 – ENSURING ACCESS TO THE FULL CURRICULUM

September 2019 (v2)

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SECTION 1. WHAT ACTION IS THE WELSH GOVERNMENT CONSIDERING AND WHY?

1.1 Background

Ensuring access to Religious Education (RE) and Relationships and Sexuality Education (RSE)

As outlined in *Education in Wales: Our National Mission*, the Welsh Government is working to develop transformational curriculum and assessment arrangements in Wales to enable young people to have higher standards of literacy and numeracy, become more digitally and bilingually competent, and evolve to enterprising, creative and critical thinkers. The new arrangements have equity and excellence at their core and help to develop confident, capable and caring citizens. This is at the core of the contribution of our compulsory education to the well-being goals in the Well-being of Future Generations (Wales) Act 2015.

Successful Futures: Independent Review of Curriculum and Assessment Arrangements in Wales (2015) sets out practical and fundamental issues with the existing curriculum and assessment arrangements in Wales, including:

- levels of achievement not as high as they should be (as evidenced by PISA and Estyn);
- an Organisation for Economic Co-operation and Development (OECD) review in 2014 which concluded the current assessment and evaluation arrangements are unsatisfactory in improving performance amongst a high proportion of Welsh young people;
- lack of continuity within education and during transition between stages;
- poor educational experience for young people at Key Stage 3; and
- a curriculum devised in 1988 does not reflect the world that young people are living in now and the implications of a changing world on what and how young people need to learn.

Consequently, there is a need to ensure that Wales has a broad and balanced curriculum which is fit for the 21st century, outlining what knowledge learners should have and what skills they should acquire. One of the core recommendations of *Successful Futures* is to place the four purposes at the heart of our education system so that children and young people develop as:

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

While there will be other statutory requirements and statutory guidance to support schools in developing and realising the new curriculum, a purpose-led curriculum will offer considerably more freedom and agency to practitioners to offer learning which equips learners for the challenges and opportunities they face growing up and then living and working in the 21st century.

Within this purpose-led approach both Religious Education (RE) and Relationships and Sexuality Education (RSE) have a central role to play in realising the four purposes and achieving a broad and balanced education to the extent that we have proposed they must be separate compulsory requirements. With this in mind, we have been reviewing the Right to Withdraw element of the current curriculum which allows parents to withdraw their child from RE and sex education, which will be encompassed within RSE in future.

We have carefully considered the views expressed in the responses to the White Paper consultation on this issue, which showed that people have concerns about:

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

However, in our increasingly complicated and rapidly changing world, the children and young people of Wales have a need and a right to expect state education¹ to offer critical, pluralistic and developmentally appropriate learning which does not seek to indoctrinate about the issues covered in these subjects. This is important as part of the development of a more inclusive and tolerant society. High quality RSE and RE provision in supports children and young people to stay safe, to respect one another, and to build healthy relationships. These are important values we want all young people in Wales to develop to allow young people to be ethical, informed citizens of Wales and the world and healthy, confident individuals, ready to lead fulfilling lives as valued members of society.

On this basis we believe there is a strong principle-based case for all learners to be guaranteed access to RE and RSE. For learners to fully benefit from a broad and balanced curriculum, they must be able to access all parts of the curriculum, and we are therefore, proposing that the new curriculum should not include a right to withdraw.

¹ i.e. maintained schools and funded nursery settings

Change of name for Religious Education

In line with our proposal to change the name of Sex and Relationships Education to Relationships and Sexuality Education² in the new curriculum in order to better reflect the current practice and approach to this subject area, we have been considering the name Religious Education.

RE provides opportunities for learners to explore a range of spiritual, philosophical, moral, social and cultural beliefs within their community, across Wales, and throughout the world. We feel the subject name should reflect the full extent of what learners will be taught through this subject area. As such, we are proposing to change the name so that it appropriately reflects teaching practice within the new curriculum, and demonstrates the breadth of the subject in allowing for the exploration of a range of religious and philosophical beliefs, as well as other beliefs and world-views, including non-religious world views. Our preferred name is Religions and Worldviews but we would welcome views and alternative suggestions.

1.2 Long term

The new curriculum and assessment arrangements are being developed to ensure they are fit for a rapidly changing world.

The learning provided in RE and RSE is important in supporting learners so that they can navigate an increasingly complex society.

The proposal to not include the right to withdraw in the new curriculum is an example of accepting some short-term challenge and pressure in order to support the long term goal of a more inclusive society.

1.3 Prevention

High quality RSE and RE provision from an early age supports children and young people to stay safe, to respect each other and to build healthy relationships. This will benefit their mental, physical and emotional well-being and therefore have important implications for their successful progression through adult life. The four purposes of the curriculum contribute to breaking multiple negative cycles by supporting children and young people to develop as: ambitious, capable learners; enterprising, creative contributors; ethical, informed citizens; and healthy confident individuals.

Mandatory RE and RSE and the proposal not to include the right to withdraw in the new curriculum directly contribute to prevention by ensuring learners receive learning about

² The current name for this subject is “sex education” but guidance in 2010 used the title “Sex and Relationship Education in Schools”. We have consulted on draft guidance which uses the term “Relationships and Sexuality Education”.

their rights and the rights of others. Access to high quality information and strategies for understanding pressures they may face will equip them better in facing those pressures: from recognising healthy and unhealthy relationships to understanding the perspectives of people with different beliefs and values to them. This will support the prevention of the negative outcomes that would arise as a result of negative relationships and behaviours

It is questionable whether learners would be able to fully meet the four purposes of the curriculum especially being ethical, informed citizens; and healthy confident individuals if they do not receive RE and RSE.

1.4 Integration

The new curriculum is based on a much greater level of integration across subjects and creating the opportunity for reinforcement through different approach. The intention is that RE and RSE should be integrated within the curriculum and not including the right to withdraw makes this aim easier to achieve.

Not including the right to withdraw from RE and RSE in the new curriculum will contribute to each of the seven well-being goals outlined in the Well-being of Future Generations (Wales) Act 2015 shown below:

A prosperous Wales	<ul style="list-style-type: none"> Learners not being withdrawn from RE and RSE will better enable all young people leaving school to have a full understanding of the importance of respect for all faiths, religions and groups and enable a future workforce to be tolerant and integrated enabling young people to be ready to play a full part in work and life'.
A resilient Wales	<ul style="list-style-type: none"> Both RE and RSE contribute to social resilience, and RSE helps learners to recognise the dignity and respect due to the living world around them.
A healthier Wales	<ul style="list-style-type: none"> Ensuring that all learners receive high quality RE & RSE will benefit their mental, physical and emotional well-being.
A more Equal Wales	<ul style="list-style-type: none"> The proposals will ensure that learners will receive information about different beliefs and attitudes, and learn to respect and treat others with dignity.
A Wales of cohesive communities	<ul style="list-style-type: none"> One of the four purposes of the new curriculum is to enable 'healthy, confident individuals, ready to lead fulfilling lives as valued members of society' and both RE and RSE contribute to this purpose by enabling all learners to gain insight into a broad range of cultures and philosophical perspectives.
A Wales of vibrant culture and thriving Welsh Language	<ul style="list-style-type: none"> In developing respect and understanding, ensuring access to RE and RSE will have a positive cultural impact.
A globally responsible Wales	<ul style="list-style-type: none"> One of the four purposes of the new curriculum is to enable learners to become ethical, informed citizens of Wales and the World'; ensuring access to RE & RSE will contribute to this purpose.

1.5 Collaboration

The policy to ensure access to RE and RSE will have an impact on parents, learners, practitioners (in different schools and settings), governing bodies, local authorities, regional education consortia and Estyn. More widely, they will also impact on third sector organisations, cultural institutions, further and higher education, and businesses.

Co-production has been key to the development of the curriculum with Pioneer Schools leading on developing the new curriculum which includes RE and RSE.

During development of these proposals we have:

- Discussed the potential implications of this proposal with a range of people with an interest.
- Undertaken a White Paper consultation which included questions about the Right to Withdraw around whether this should be retained and if so whether it should be retained in an amended form
- Consulted on draft RSE guidance

It is clear that RE and RSE give rise to particular sensitivities and, of the issues covered in the curriculum, they are the areas where the tension between the role of the state and the role of parents in educating and informing children and young people is most sensitive – and, arguably, most pressing.

In developing the proposed approach further it will be important to take opportunities for further collaboration in bringing in community representatives, experts and other groups to support schools in exploring the issues covered in more detail.

1.6 Involvement

The whole curriculum has been built on a co-construction approach. There has been extensive engagement on these policy areas (RE and RSE) but this policy proposal on the right to withdraw is particularly challenging because it evokes strong opinion and not everyone will agree with it. However that makes ongoing involvement even more important.

As part of this consultation, we will be convening a series of focus groups to explore these issues with children and young people, parents and practitioners.

We will be carrying out meaningful and sustained engagement with communities, particularly about the content of RSE in the new curriculum and the way in which it will be taught. In addition, we will be establishing a working group to finalise the RSE guidance and will seek to ensure that representatives from a variety of communities across Wales, including faith communities, are involved and able to shape the final guidance.

SECTION 2. WHAT WILL BE THE EFFECT ON SOCIAL WELL-BEING?

2.1 People and Communities

How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal affect people and communities?

Ensuring access to RE and RSE

Two of the four purposes of the new curriculum enable 'healthy, confident individuals, ready to lead fulfilling lives as valued members of society' and 'ethical, informed citizens who are ready to be citizens of Wales and the world.'

The proposal to ensure access to the full curriculum will ensure that all learners in Wales develop understanding and appreciation of different world views, and establish a range of respectful, healthy relationships. It is envisaged, therefore, that overall this will have a positive impact on Welsh society. No formal data is currently kept on the use of the right to withdraw in the current curriculum, however, the anecdotal evidence we have received from education practitioners indicated that only a very small minority of learners are withdrawn. Therefore this proposal will only affect a very small number of people, although there are implications for individual groups and these are considered in the equality impact assessment at Annex B.

There is a possibility that, if the proposal is carried out, parents would prefer to withdraw their children entirely from maintained schooling to avoid them receiving education on the issues covered in RE and/or RSE. We do not have any concrete evidence on the likelihood of this happening but, if it does, this would have a negative impact on those children as they will not receive the benefits of mainstream schooling. If we decide to go ahead with the proposal, this will need to be monitored.

Change of name for Religious Education

We do not feel that there will be any impacts as a result of changing the name of this subject area, as any name change will merely reflect the existing breadth of the topics covered within it. We understand that people might have concerns that this will mean that learning about religions and religious tenets becoming a less important part of the subject area. However this is not the case.

2.2 Children's Rights

The development of the new curriculum has had regard to the United Nations Convention on the Rights of the Child.

There are specific considerations in relation to the right to withdraw and a children's rights assessment is attached at Annex A.

2.3 Equality

An Equalities Impact Assessment is attached at Annex B.

2.4 Rural Proofing

How (either positively or negatively), and to what extent (significant/moderate /minimal impact), will the proposal impact on rural individuals and communities?

The curriculum is designed to apply to every learner in every classroom in Wales. There are no immediately obvious implications for rural communities or individuals living in rural communities.

2.5 Health

2.5a How (either positively or negatively), and to what extent (significant/moderate /minimal impact), will the proposal impact health determinants?

One of the four purposes of the curriculum is to support learners to become healthy and confident individuals. RSE supports learners to develop their mental and emotional well-being. Therefore the proposal should improve health determinants.

2.5b. Could there be a differential health impact on particular groups?

The proposals relate to learners of statutory school age. The policy proposal should reduce the likelihood of differential health impacts by ensuring that all learners have access to high quality learning on the topics covered in RSE in particular. There are potentially some differential impacts for some learners if they were withdrawn entirely from maintained schooling as a result of this policy proposal being carried out.

2.6 Privacy

A privacy impact assessment is not required for these proposals as they do not relate to the collection or use of personal information.

SECTION 3. WHAT WILL BE THE EFFECT ON CULTURAL WELL-BEING AND THE WELSH LANGUAGE?

3.1 Cultural Well-being

3.1a How can the proposal actively contribute to the goal to promote and protect culture and heritage and encourage people to participate in the arts sports and recreation? (for Welsh Language see section 3.2)

The proposal has no direct impact on culture apart from improving tolerance and the embracing of diversity across society.

3.1b Is it possible that the proposal might have a negative effect on the promotion and protection of culture and heritage, or the ability of people to participate in arts, sport and recreation? If so, what action can you take to avoid or reduce that effect (for example by providing alternative opportunities)?

We have not identified a negative effect.

3.2 Welsh Language

A Welsh Language Impact Assessment is attached at Annex C.

SECTION 4. WHAT WILL BE THE EFFECT ON ECONOMIC WELL-BEING?

4.1 Business, the general public and individuals

How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal impact business and the public?

The policy would have no direct impact on businesses.

The impact would be on parents who would no longer have a right to withdraw their children from RE or RSE and on learners who could no longer be withdrawn and on their wider communities.

4.2 Public Sector including local government and other public bodies

How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal impact the public sector?

The proposals set out will have a minor impact on the public sector in Wales, primarily in schools.

4.3 Third Sector

How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal impact third sector organisations and what they do?

Third sector organisations interested in education, those representing the communities which may have particular views on or interest in the content of RE and RSE will be impacted. Third sector organisations who work directly with schools will also be similarly impacted.

4.4 Justice Impact

Based on legal advice it is unlikely there will be impacts on the Justice System. Therefore a Justice Impact Assessment has not been completed.

SECTION 5. WHAT WILL BE THE EFFECT ON ENVIRONMENTAL WELL-BEING?

5.1 Natural Resources

5.1a How will the proposal deliver one or more of the National Priorities in the Natural Resources Policy (NRP)?

The new arrangements will not have an impact on this area.

5.1b Does the proposal help tackle the following national challenges and opportunities for the sustainable management of natural resources?

N/a

5.2 Biodiversity

N/a

5.3 Climate Change

5.3a Decarbonisation

How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal affect emissions in Wales?

N/a

5.3b Adaptation

How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal affect ability to adapt to the effects of climate change?

N/a

5.4 Strategic Environmental Assessment (SEA)

The proposals will not have an impact on any of the key areas listed as part of the regulations (agriculture, forestry, fisheries, energy, industry, transport, waste management, water managements, tourism, town and country planning or land use). Consequently, an SEA is not required.

5.5 Habitats Regulations Assessment (HRA)

The proposals will not affect any of the listed sites under the 'Natura 2000 European protected site network.' As a result, a HRA is not required.

5.6 Environmental Impact Assessment (EIA)

The proposals will not have an impact on the listed areas. As a result, an EIA is not required.

SECTION 6. RECORD OF FULL IMPACT ASSESSMENTS REQUIRED

Impact Assessment	Yes/No
Children's rights	Yes
Equality	Yes
Rural Proofing	No
Health	No – screening done
Privacy	No
Welsh Language	Yes
Economic / RIA	No
Justice	No
Biodiversity	No
Climate Change	No
Strategic Environmental Assessment	No
Habitat Regulations Assessment	No
Environmental Impact Assessment	No

SECTION 7. CONCLUSION

7.1 How have people most likely to be affected by the proposal been involved in developing it?

The curriculum design and development has been undertaken through a model of co-construction with representatives from the education system in Wales (Estyn, Regional Consortia, Qualifications Wales and practitioners). At the heart of this process is a national network of Pioneer Schools, who have engaged with their learners and their cluster and network schools to gather views throughout the process. In addition, an extensive programme of stakeholder engagement is underway.

The content of RE and RSE within the new curriculum is also being co-constructed. For RE, a new supporting framework is being developed by a group of practitioners, Pioneers, academics and representatives from Standing Advisory Councils on Religious Education and the National Advisory Panel for Religious Education. The approach we are taking to RSE is based on recommendations from an Expert Panel, comprised of academic specialists in RSE, service providers and teachers with RSE responsibilities.

We have also formally consulted on the proposals for RE and RSE in the new curriculum as part of the White Paper consultation (the consultation also included questions on the right to withdraw) and on draft RSE guidance.

7.2 What are the most significant impacts, positive and negative?

The most significant direct impacts would be on parents, because they would not be able to withdraw their children from RE or RSE.

It would also have a significant impact on learners who otherwise would be withdrawn. RSE and RE would become mandatory elements of the new curriculum. At present they do not have to attend such lessons if their parents withdraw them. That may be contrary to their wishes in some cases but it is reasonable to assume that in some cases the learner would be in agreement with their parent's decision. However, the proposal does mean that learners would fully benefit from a broad and balanced education by being able to access all parts of the curriculum.

7.3 In light of the impacts identified, how will the proposal:

- **maximise contribution to our well-being objectives and the seven well-being goals; and/or,**
- **avoid, reduce or mitigate any negative impacts?**

The four purposes, as the starting point for all teaching and learning and supported by legislation, contribute to the Welsh Government's well-being objectives by developing children and young people as: ambitious capable learners; enterprising, creative contributors; ethical, informed citizens; and healthy, confident individuals. Compulsory RE and RSE have a significant part to play in allowing learners to achieve these purposes, and maximise the new curriculum's contribution to the well-being goals.

7.4 How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

We are publishing this impact assessment as part of a consultation asking for views on the implications of the proposal. We will carefully review all feedback received before a final decision is made.

FULL IMPACT ASSESSMENTS

A. CHILDREN'S RIGHTS IMPACT ASSESSMENT

1. Describe and explain the impact of the proposal on children and young people.

Ensuring access to RE and RSE

Two of the four purposes of the proposed new curriculum are that children and young people develop as:

- ethical, informed citizens of Wales and the World; and
- healthy, confident individuals ready to lead fulfilling lives as valid members of society.

It's important that children are educated in a way that contributes to developing ethical informed citizens who 'understand and exercise their human and democratic responsibilities and rights' and 'respect the needs and rights of others, as a member of a diverse society'.

The curriculum is being designed as a continuum for all learners from 3-16 and the proposal will affect this age group.

In a world where young people are able to access 'information' instantly online, it is important that accurate and comprehensive information is shared with young people in an age appropriate way supported by discussions with a professional.

The right to withdraw in the current curriculum rests solely with parents and learners are not able to determine whether they learn about the topics covered in RE and RSE or whether they wish to withdraw. By not including a right to withdraw in the new curriculum, all children and young people across the maintained education system in Wales would, for the first time, be able to have access to the full curriculum including RE and RSE.

Evidence and Consultation

As there is currently no requirement for data to be kept, formal data on the current right to withdraw and how it is used is limited. However, we have obtained anecdotal evidence from education practitioners that only a very small percentage of learners are withdrawn from these subjects, although the pattern across schools can be very different.

A national call for evidence was undertaken as part of the Independent Review of Curriculum and Assessment arrangements in Wales. This received over 700 responses, of which over 300 were from learners themselves. One of the areas that learners in particular, but not exclusively, wanted to see a greater focus on was general social competences (life skills and personal confidence, personal and social education (PSE)).

We carried out a White Paper consultation on our legislative proposals - *Our National Mission: A Transformational Curriculum* - which received nearly 2,000 responses and a consultation on *draft RSE guidance* which received 275 responses.

We have also explored the potential implications of this policy with practitioners.

2. Explain how the proposal is likely to impact on children's rights.

Pursuant to section 1 of the Rights of Children and Young Persons (Wales) Measure 2011, the Welsh Ministers must when exercising any of their functions have due regard to the requirements of Part I of the UNCRC. Accordingly, in developing this proposal consideration has been given to compatibility with the UNCRC.

RE and RSE within the new curriculum will encourage children and young people to respect their own rights and culture and those of others. They aim to equip children and young people with knowledge, skills, attitudes and values that will empower them to realise their health, well-being and dignity; develop respectful social and sexual relationships; consider how their choices affect their own well-being and that of others; and understand and ensure the protection of their rights throughout their lives. Therefore ensuring access to high quality, comprehensive information on these subject areas will positively contribute to the following articles in the UN Convention on the Rights of the Child:

- Article 13 – Children have the right to get and share information as long as the information is not damaging to them or others
- Article 28 -Children have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.
- Article 29 - Education should develop each child's personality and talents to the full. It should encourage children to respect their parents, and their own and other cultures.
- Article 33 – The Government should provide ways of protecting children from dangerous drugs

- Article 34 – The Government should protect children from sexual abuse
- Article 36 – Children should be protected from any activities that could harm their development

Providing for a right to withdraw in the new curriculum could have negative impacts on learners as – if their parents chose to exercise that right - they would miss out on core curriculum content, which is important for their development (and in the case of RSE for safeguarding them). Their parents and wider community will provide education on some of the same issues but the focus, message and comprehensiveness will potentially not be the same as provided in school (otherwise there would be no reason to withdraw them from school-based provision.)

The responses to the White Paper consultation and the consultation on the RSE guidance made it clear that some people have concerns that not including a right to withdraw in the new curriculum would have a negative impact on learners, particularly in relation to Article 13 (i.e. that children will be exposed to issues/concepts that they are not ready for and therefore will damage them) and Article 14 (“Children have the right to think and believe what they want and to practice their religion, as long as they are not stopping other people from enjoying their rights.”)

We have considered these concerns carefully. However, this proposal is not intended to replace parents’ vital role in educating their children and our guidance will make it clear that the learning provided to children and young people through RE and RSE must be provided sensitively and inclusively to complement it. Professional learning and resources (as part of a £24 million package to support implementation of the new curriculum) will be provided to support this.

We also recognise that there is an argument for retaining a right to withdraw but transferring to the learner at an appropriate point in their maturity. However, we have provisionally concluded that not having a right to withdraw is a better option.

There is a possibility that if the proposal is carried out, parents would prefer to withdraw their children entirely from maintained schooling to avoid them receiving education on the issues covered in RE and/or RSE. We do not have any concrete evidence on the likelihood of this happening but, if it does, this would have a potentially negative impact on those children as they will not receive the benefits of mainstream schooling. If we decide to go ahead with the proposal, this will need to be monitored.

B. EQUALITY IMPACT ASSESSMENT

1. Describe and explain the impact of the proposal on people with protected characteristics as described in the Equality Act 2010.

Ensuring access to RE and RSE

The new curriculum, including RE and RSE has been designed and developed to apply and be accessible to every learner in every classroom from ages 3 to 16.

In ensuring that learners receive RSE and RE, the proposal will enable them to explore how laws and policies contribute to equity and human rights regarding sex, gender, sexuality, relationships and beliefs. They will receive high quality, impartial teaching about different beliefs and respect for the rights of others.

There will be a need to work closely with all schools, in particular faith schools which are able to provide learning in line with the tenets of their religion (providing it is pluralistic), to ensure the learning offered in RSE and RE is pluralistic and non-discriminatory.

The proposals do not give rise to unlawful discrimination contrary to the Equality Act 2010.

Record of Impacts by protected characteristic:

Age (including children up to the age of 16)

The proposal that the new curriculum should not include a right to withdraw from RE and RSE would apply for learners in school or funded non-maintained settings from 3 to 16. These arrangements will equip learners with the skills and knowledge they need for later life, supporting them to develop in line with the four purposes and associated characteristics. Therefore, it is expected the arrangements will have a positive impact on learners. Due to the phased introduction from 2022, the new curriculum will be rolled out fully for learners currently in Year 4 and below.

We have been clear that the learning provided in RSE must be developmentally appropriate. This will require schools and individual teachers to make judgements about the matters that should be explored with learners of different ages. This will be explored in more detail in the RSE guidance and there will need to be associated professional learning and resources to support practitioners.

Learning, including progression, in RE is described in the Humanities Area of Learning and Experience and in an RE framework which will make the link between the Humanities Area of Learning and Experience and the Agreed (or denominational) Syllabus.

In both cases, this is about more than simply age but also an assessment of the development and maturity of the learner so that their engagement with these issues is done in a way that is appropriate for them. It will also need to recognise the cultural background of the child and acknowledge the different perspectives on issues in different communities. This is part of ensuring teaching is pluralistic.

As discussed in the CRIA (page 18 above) we consider that not having a right to withdraw is a better option than retaining it and transferring to the learner at an appropriate point.

Reasons for decision and mitigating actions

We will need to ensure that the RSE guidance is clear on the issue of developmentally appropriate RSE and that the RE framework is clear on the issue of progression.

Disability

The policy will require practitioners to adapt their provision of RE and RSE to support the needs and interests of their learners and communities, including disabled learners and those with Additional Learning Needs (ALN).

Reasons for decision and mitigating actions:

We do not have specific evidence of use of the right to withdraw by parents of disabled learners. However, that does not mean that there is not an issue. We do have evidence from the Sex and Relationships Education Expert Panel that the teaching of the equivalent of RSE in the current curriculum was: *“inadequate for children and young people with disabilities. There is a lack of formal and informal SRE for children and young people with disabilities or opportunities to access information about when and how to seek advice and support.”*

This indicates that even if the right to withdraw itself is not a significant issue for disabled learners or their parents (which we do not have the evidence to determine yet), there is a need to ensure schools and teachers are better equipped to provide learning which recognises the specific needs of disabled learners – and opportunities for those learners to access further support and learning. This is an issue which needs to be picked up in the

Welsh Government's RSE guidance and for the professional learning and resources provided.

We will also need to engage with disabled learners, their families and representative organisations to ensure these issues are addressed.

We have not identified evidence of specific impacts in relation to RE but that does not mean that there are none. This will need to be explored further as proposals develop.

More generally in relation to the overall approach to the curriculum, the design principles for the new arrangements is that they are appropriate for every learner in every classroom which ensures that learners with Additional Learning Needs (ALN) have access to the curriculum. This criteria means the curriculum is developed to be inclusive, easily understood by all, encompassing an entitlement to high-quality education for every learner and taking account of their views in the context of the UNCRC, and those of parents, carers and wider society.

Special schools have been able to input the needs of their learners into the design through their representation on all AoLE groups, Curriculum and Assessment Group, Coherence Group, and Manageability Group.

The AoLEs have been designed with the input of Special Schools to ensure they are applicable to all learners. The ALN sub-group is developing guidance for ALN in mainstream schools to ensure inclusivity of the curriculum. In addition, a specific work stream has been set up to take account for 'Routes for Learning' during the curriculum the development process to ensure the curriculum is accessible for all. The ALN sub-group is supporting this by developing resources to support learners to progress from 'Routes for Learning' to Progression Step 1.

Gender Reassignment (the act of transitioning and Transgender people)

Proposals to make RSE compulsory for all learners should have a positive impact on these learners as it raises awareness about respectful relationships, positive behaviour and acceptance of diversity. It also aims to encourage schools to consider how they provide support and learning to LGBTQI+. Furthermore, it aims to engage learners with issues such as gender and inequality and seek to foster a whole school approach to inclusion and tolerance.

We have not identified specific issues in relation to RE but this will require further consideration as the policy is developed.

Reasons for decision and mitigating actions

The Sex and Relationships Expert Panel in their report to Welsh Government (2017) focused their recommendations to improve the provision of RSE in schools for all young people, no matter their gender or sexual orientation. RSE will form part of the curriculum for all learners up to 16, contributing to the four purposes, specifically: ethical, informed citizens who respect the needs and rights of others as a member of a diverse society; and healthy, confident individuals who form positive relationships based upon trust and mutual respect.

Research put forward in the Stonewall School Report Cymru (2017) shows LGBTQI+ identifying young people are still more likely to suffer poor mental health, self-harm and depression. The changes to RSE in the curriculum look to combat this by helping all learners feel emotionally and physically safe and secure so they are able to achieve their full potential.

The inclusion of 'age appropriate' provision of sex education in the curriculum acknowledges that, while age will still be a factor in making decisions around provision, schools will need to consider the physical and cognitive development of their learners, including taking into account the experiences of learners, when making decisions regarding planning RSE content. This supports the positive impacts on learners from this group, though there has been contention around these proposals and that could, if not handled carefully, have a negative impact on learners either in general or in the specific context of an individual school.

By not including a right to withdraw, all children and young people in mainstream education will have an inclusive Relationship and Sexuality Education across Wales.

Pregnancy and maternity

RSE may have a positive impact on the prevention of teenage pregnancies and, separately, STDs by providing all learners with more information about relationships and safe sex. It should also provide learners with factual information about their rights, including their rights as someone who is pregnant.

Reasons for decision and mitigating actions:

We have no specific evidence of impacts on learners who are pregnant.

Race (include different ethnic minorities, Gypsies and Travellers and Migrants, Asylum seekers and Refugees)

For RSE, a decision to not include a right to withdraw will have a negative impact on some parents, some learners and wider communities based on their race and religious identity or beliefs because parents would no longer be able to exercise the current choice they have about the extent to which the school educates their children about certain issues. There will be implications for different ethnic minorities as a consequence of their faith or belief. In addition, it will also have negative impacts for Gypsy and Travellers, where these matters are also very sensitive.

For both RE and RSE, if there is no right to withdraw, there are potential implications if a school fails to provide pluralistic education in these subject areas. While RE and RSE must be provided pluralistically there is some risk that they may in practice be delivered in a way which in some respects does not meet that requirement. That failure may be entirely inadvertent. If that happened, it could give rise to negative impacts for learners who would have to remain in class and attend the lessons. Work by Stonewall in relation to RSE provision, identified this as a particular issue in faith schools in the UK. However, we do not think that this concern is best addressed by having a right to withdraw, instead the issue should be addressed through guidance and the role of the consortia and Estyn.

A decision to include a right to withdraw in the new curriculum would have negative impacts for learners with these protected characteristics. This is because, if their parents chose to withdraw them from RSE and RE, they will miss out on core curriculum content – content which is important not just in terms of making progress in relation to the four purposes but also in safeguarding them (in the case of RSE). Their parents and wider community will provide education on some of the same issues but the focus, message and comprehensiveness will not be the same as provided in school (otherwise there would be no reason to withdraw them from school-based provision.)

There appear to be further potential negative impacts of including a right to withdraw for some groups with protected characteristics, in particular in relation to gender (and particular issues for girls and young women from some Black and Minority Ethnic communities or as a result of their faith or beliefs). Being withdrawn from RSE will mean that some girls and young women will miss out on learning about their rights and the opportunity to explore culturally sensitive issues such as forced marriage and female

genital mutilation. Similarly, if boys and young men are withdrawn they also miss the opportunity to learn about these issues in a way which fully reflects the law in the UK. This is a safeguarding concern.

Reasons for decision and mitigating actions:

The proposals set out to not include the right to withdraw in the curriculum is likely to have a negative impact on certain communities across Wales. However with the impact of the internet and information – and misinformation - being freely available it is important that these subjects are taught to all pupils in schools in a consistent and age appropriate manner.

We will engage affected communities very closely to understand the implication for them and, if we go ahead with the proposal, to inform the guidance, professional learning and resources necessary to enable practitioners to teach the subject in a sensitive and developmentally appropriate way.

As discussed above, we have concluded that a right to withdraw is not the appropriate safeguard to the risk of a failure to provide teaching and learning which is pluralistic. Instead the inappropriate practice should be addressed. We consider that the risk of that happening can be appropriately mitigated by the publication of clear statutory guidance on that point by the Welsh Ministers.

Religion, belief and non-belief

For RE, a decision to not to include a right to withdraw in the new curriculum will have a negative impact on some religious groups. Based on the evidence we have been able to gather, it will be a particular issue for Jehovah's Witnesses and humanists. We have not identified any other groups significantly affected by a decision to not include the right to withdraw for RE but we did receive some evidence that there could be issues where a school is failing to teach RE in a pluralistic way. This issue is discussed above.

For RSE, a decision to not include the right to withdraw will have a negative impact on some parents, some learners and wider communities based on their religious identity or beliefs because parents would no longer be able to exercise the current choice they have about the extent to which they, rather than school, educates their children about certain

issues. Based on the evidence we have been able to gather, it will be a particular issue for some Muslims and for some Christians.

The same issues in relation to a teacher failing to provide pluralistic learning noted above in relation to RE also apply to RSE.

However, a decision to include a right to withdraw in the new curriculum would have negative impacts for learners with these protected characteristics. This is because, if their parents chose to withdraw them from RSE and/or RE, they will miss out on core curriculum content – content which is important not just in terms of making progress in relation to the four purposes but also in safeguarding them (in the case of RSE). Their parents and wider community will provide education on some of the same issues but the focus, message and comprehensiveness will potentially not be the same as provided in school (otherwise there would be no reason to withdraw them from school-based provision.)

It is also important to note there are some differential impacts among religious groups in relation to both RE and RSE. In particular, some religious groups – those of Catholic faith (and also the Church in Wales) – may have the option to send their children to a maintained school which is also a faith school. These schools³ are permitted to teach RSE (and RE) according to the tenets of their faith, although in doing so they must ensure their teaching is pluralistic. This means they can state that the Church – and the school – held a particular view on contraception or same sex marriage for example, but would need to highlight that others held different views. There is no current equivalent option for parents of other faiths to send their child to a school where RSE (or RE) will be taught in a way which reflects the tenets of their faith, while being pluralistic, within the maintained school system in Wales⁴.

There appears to be further potential negative impacts of the continuation of the right to withdraw for some groups with protected characteristics, in particular in relation to gender (and particular issues for girls and young women as a result of their faith or beliefs). Being withdrawn from RSE will mean that some girls and young women will miss out on learning

³ In practice almost all faith schools in Wales will be voluntary aided.

⁴ Such schools could be established following a school organisation proposal

about their rights and the opportunity to explore culturally sensitive issues such as force marriage and female genital mutilation. Similarly, if boys and young men are withdrawn they also miss the opportunity to learn about these issues in a way which fully reflects the law in the UK. This is a safeguarding concern.

The right to withdraw has been described to officials as functioning as a safety valve in the system and not including it in the new curriculum could have a detrimental effect on schools' relationship with those communities, and cause community tensions. In addition, not including a right to withdraw in the new curriculum could lead some parents to remove their children from mainstream school and educate them at home or in other settings, many of which might be unregulated.

Reasons for decision and mitigating actions:

Based on the evidence we have, this is one of the areas where the decision on whether to retain the right to withdraw will have the most significant impacts. This emphasises the need to engage affected communities very closely to understand the implication for them and to inform the guidance, professional learning and resources necessary to enable practitioners to teach the subject in a sensitive and developmentally appropriate way. Unfortunately, to date, officials have been unable to discuss the position with the Jehovah's Witness community.

In circumstances where the issue is a failure to provide teaching and learning which is pluralistic or where an individual practitioner does not approach the issue pluralistically, we have concluded a right to withdraw is not the appropriate safeguard. Instead the inappropriate practice should be addressed. This is discussed above

Sex / Gender

RSE as a compulsory part of the curriculum will have positive impacts on gender by raising awareness and understanding amongst learners of respectful relationships, positive behaviour and diversity.

There appears to be potential negative impacts of including a right to withdraw for RSE in particular, for some groups with protected characteristics, in particular in relation to gender (and particular issues for girls and young women from some Black and Minority Ethnic communities or as a result of their faith or beliefs which are noted above). Being withdrawn from RSE will mean that some girls and young women will miss out on learning about their rights, appropriate, safe relationships and issues like violence and against

women. Similarly, if boys and young men are withdrawn they also miss the opportunity to learn about these issues in a way which fully reflects the law in the UK. This is a safeguarding concern.

There are potentially some differential impacts for some learners if they were withdrawn entirely from maintained schooling as a result of the right to withdraw being not included in the new curriculum. We do not have evidence about the likelihood, scale or the gender split but the engagement we have had with schools suggests it is possible in a minority of cases where the right to withdraw is exercised. This will need further exploration but clearly has the scope to exacerbate disadvantage based on gender.

Reasons for decision and mitigating actions

Not including a right to withdraw in the new curriculum will ensure all learners have access to high quality RSE in schools across Wales.

Based on the evidence we have, this is one of the areas where there are impacts whether a right to withdraw is included or not included. This emphasises the need to engage affected communities, and women and girls in those communities, very closely to understand the implications for them and to inform the guidance, professional learning and resources necessary to enable practitioners to teach the subject in a sensitive and developmentally appropriate way.

Sexual orientation (Lesbian, Gay and Bisexual)

The existence of a right to withdraw does not have a direct impact on LGBTQI+ learners. It is available to all and its existence does not prevent other learners from receiving either RE or RSE. However, there are indirect impacts of the continuation of the right to withdraw. It is apparent from the responses to the White Paper and conversations with the Muslim Council for Wales, for example, that certain topics are of particular concern. These topics generally relate to sexual orientation, gender identity and same sex relationships. A continuing position where learners are prevented from receiving consistent, factual and developmentally appropriate education in relation to these issues, has the potential to create an indirect negative impact on people with protected characteristics as a result of their gender, gender identity or sexual orientation. It has the potential to allow misinformation, bias or outright discrimination to persist in the wider school environment as a result of a lack of information (or inappropriate alternative learning being provided outside school.) It also has a negative impact on the development of a more inclusive and

tolerant wider society. It also, arguably, fails to recognise that the rights of LGBTQI+ people to be treated with equality are protected in law and there should be no issue with learning which reflects that.

RSE and the Health and Well-being AoLE, may reduce homophobic, biphobic and transphobic (HBT) bullying and subsequently increase in well-being for LGBTQI+ learners. It will also help to challenge gender and sexual stereotypes and increase learners' understanding of safe, healthy and positive relationships.

For both RE and RSE, if there is no right to withdraw, there are potential implications if a school does not provide that education in a pluralistic way. This is discussed above

Reasons for decision and mitigating actions

The Sex and Relationships Expert Panel recommended the wider scope for Relationships and Sexuality in order to have the positive impact highlighted above. This is supported by the proposed statutory status RSE in the curriculum for all learners up to 16.

Not including a right to withdraw in the new curriculum would mean all young people in Wales will be able to be part of these important lessons.

In circumstances where the issue is a failure to provide teaching and learning which is pluralistic or where an individual practitioner does not approach the issue pluralistically, we have concluded a right to withdraw is not the appropriate safeguard. Instead the inappropriate practice should be addressed. This is discussed above

Marriage and civil partnership

RSE and the Health and Well-being AoLE will help challenge gender and sexual stereotypes and increase children and young peoples' understanding of safe, healthy and positive relationships.

Reasons for decision and mitigating actions

The four purposes, as the starting point for all teaching and learning, reflect the need for learners to respect a diverse society: *Ethical, informed citizens who respect the needs and rights of others, as a member of a diverse society.*

The statutory status of RSE in the curriculum and the parity across the six AoLEs (including Health and Well-being) will ensure the quality of the learning experience in this

area and raise the profile of the topics of marriage, civil partnership and healthy relationships.

There is currently statutory recognition of the right for schools of a religious character to provide RSE which is appropriate to the religious denomination of the school. There are no plans to change the ability for schools with a religious character to provide RSE that is consistent with their ethos. However, their provision of RSE must be pluralistic.

Not including a right to withdraw in the new curriculum would mean all young people in Wales will be able to be part of these important lessons.

Low-income households

N/a

Human Rights and UN Conventions

Human Rights	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate negative Impacts?
<p>Article 2, Protocol 1 – The right to an education.</p> <p>Article 9 – right to freedom of thought, conscience and religion</p> <p>Article 14 – prohibition of discrimination</p>	<p>The proposals actively support a child or young person’s right to an education including high quality and comprehensive information about the issues covered in RSE and RE.</p>	<p>By not including a right to withdraw in the new curriculum, all learners will now be able to participate in this important part of the curriculum. The guidance on these subject areas will make it clear that the information covered must be conveyed in an objective, critical and pluralistic manner</p>	<p>There will be a need to work closely with all schools, in particular faith schools which are able to provide learning in line with the tenets of their religion (providing it is pluralistic), to ensure the learning offered in RSE and RE is pluralistic and non-discriminatory.</p>

We have considered whether the proposals for RE and RSE are compatible with the rights protected by the Human Rights Act 1998 (“the Convention Rights”). The relevant Convention rights are Article 2 Protocol 1 (“A2P1”) (taking into account the UK reservation), Article 9 (“A9”) and Article 14 (“A14”).

A2P1:

In terms of A2P1 (Right to education) the second sentence of that Article provides “No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions”. The European Court of Human Rights (“the ECtHR”) has conventionally approached cases involving religion in schools by focusing on A2P1, holding that it, rather than A9, is the governing Article in the area of education and teaching.

Whilst that second sentence of A2P1 is phrased as an absolute right that is not how the courts have interpreted it. Instead the courts have found that the parental rights in the second sentence of A2P1 will be appropriately respected if the religious education and RSE provided does not involve indoctrination and complies with the Pluralistic requirement.

The ECtHR has held that the setting and planning of school curricula is a matter primarily for the state, and that A2P1 does not prevent the state from imparting through teaching knowledge of a directly religious or philosophical kind; in particular it does not enable parents to object to the inclusion of such teaching in the school curriculum. However, the ECtHR has also held that A2P1 is aimed at safeguarding pluralism in education and that the state must take care to ensure that information or knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner; in particular, the state is not permitted to pursue an aim of indoctrination that might be considered as not respecting parents’ religious beliefs and philosophical convictions.

The European Commission on Human Rights has held that A2P1 governs complaints about the organisation of instruction in religious knowledge and that, in the context of religious education at school, A9 affords protection against religious indoctrination.

There is clearly a tension between the rights of the child to receive an education as expressed in the first sentence of A2P1, and the rights of the parent as expressed in the second sentence of A2P1 to have their child educated in accordance with their religious and philosophical convictions. The Welsh Government considers that in providing mandatory RE and RSE this ensures that learners receive a comprehensive education that will fit them for a modern and complex society where these issues permeate all walks of life. The Welsh Government further considers that providing legislation and statutory

guidance that enables such education to be provided pluralistically appropriately respects the parental right in the second sentence of A2P1.

A9:

A9 protects the right to freedom of thought, conscience and religion of individuals including children. The ECtHR has held that teaching which only provides information about religion, and which does not amount to indoctrination, does not constitute an interference with A9 rights. It follows that if the legislation is capable of being implemented in a way that ensures that religious education is delivered in a way that does not amount to indoctrination, then it is highly unlikely that the legislation would give rise to an interference with A9 rights, and therefore no breach of A9 could arise. The Welsh Government considers that the proposals are capable of being implemented in that way and as such there is no incompatibility with A9.

A14 (when read with another substantive Article):

The question of whether there is a breach of A14 when read together with another substantive article such as A9 is often approached by reference to four questions: (a) do the facts fall within the ambit of one or more of the substantive Convention rights, (b) is there a difference in treatment in respect of that right between the complainant and others put forward for comparison, (c) are those others in an analogous situation, and (d) is the difference in treatment objectively justifiable? The first question arises because A14 is not free-standing and, in order for there to be a breach of A14, the discrimination complained of must fall within the ambit of another substantive article of the Convention. The Welsh Government does not consider the proposals are incompatible with a substantive article and therefore does not consider that there is any incompatibility with A14.

Not including a Right to Withdraw and the pluralism requirement:

The Welsh Government considers the proposals for RE and RSE are compliant with the Convention Rights and meet the pluralism requirement. The Welsh Government considers that meeting the pluralism requirement in relation to RE or RSE is sufficient to be compatible with A2P1. The Welsh Government does not consider it necessary, for Convention compliance purposes, for there to be an opportunity for the learner to be exempted from RE or RSE.

In terms of RE the Welsh Government considers that the proposals will satisfy the pluralistic requirement because:

- There will be a requirement that curriculum will be broad and balanced and that it achieves the 4 purposes;

- The name of RE will be changed to Religions and World views. This makes clear that RE should encompass a range of religious and non-religious beliefs and world views.
- Whilst faith schools will still be able to teach according to their denomination they will still be required to teach a broad and balanced curriculum that achieves the 4 purposes and will be subject to the duty to teach RE in a pluralistic manner (in compliance with the ECtHR case law).

The same is true for RSE. Further the proposals are that the curriculum for RSE will not be prescriptive and the fine detail of what will be taught will be left to the discretion of the school having taken account of statutory guidance. The aim of such guidance would be to provide neutral and accurate information to enable schools and its pupils to navigate such issues and the huge amount of inaccurate information otherwise available.

In summary, in relation to Convention rights, the Welsh Government concludes that:

- a) whilst the second sentence of A2P1 is phrased as an absolute right that is not how the courts have interpreted it;
- b) the parental rights in the second sentence of A2P1 will be appropriately respected if the religious education and RSE provided does not involve indoctrination and complies with the pluralistic requirement;
- d) it is compatible with A2P1 and A9 to remove the right to withdraw from RE and RSE. Accordingly the Welsh Government is of the view the proposals are compatible with A2P1, A9 and A14 when read together A2P1 or A9;

C. WELSH LANGUAGE IMPACT ASSESSMENT

1. **Welsh Language Impact Assessment** **reference number** (completed by the Welsh Language Standards Team, email: Safonau.Standards@gov.wales):

01/09/2019

2. **Does the proposal demonstrate a clear link with the Welsh Government's strategy for the Welsh language? – *Cymraeg 2050 A million Welsh speakers and the related Work Programme for 2017-2021?***

The only link between the policy and the Welsh Government's strategy for the Welsh language is that it will apply equally to Welsh-medium and bilingual settings within the maintained education system as to English-medium ones.

3. **Describe and explain the impact of the proposal on the Welsh language, and explain how you will address these impacts in order to improve outcomes for the Welsh language:**

No impact on the Welsh language has been identified. There is a separate issue of ensuring there are appropriate resources and professional learning in relation to RE and RSE in the Welsh Language. However, this is being addressed through the wider development work on the new curriculum and will not be directly impacted by the policy and final decision on the right to withdraw.