

**The Commissioner for Children and Young People (NICCY)**

**Advice to the Department of Education on Relationships and Sexuality Education**

**Consultation** **on legislation which provides for a parent/carer to request to have their child excused from age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion.**

**24 November 2023**

**1.0 Introduction**

The Northern Ireland Commissioner for Children and Young People (NICCY) was created in accordance with ‘The Commissioner for Children and Young People (Northern Ireland) Order’ (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland. Under Articles 7(2) and (3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people.

Under Article 7(4), NICCY has a statutory duty to advise any relevant authority on matters concerning the rights or best interests of children and young persons. The Commissioner’s remit includes children and young people up to 18 years, or 21 years, if the young person has a disability or experience of being in the care of social services. In carrying out his functions, the Commissioner’s paramount consideration is the rights of the child or young person, having particular regard to their wishes and feelings. In exercising his functions, the Commissioner has to have due regard to all relevant provisions of the United Nations Convention on the Rights of the Child (UNCRC).

NICCY has consistently highlighted the need for provision of comprehensive, factual, age-appropriate and scientifically accurate Relationships and Sexuality Education (RSE) within Schools. It has been our longstanding concern that the prevailing approach enabling grant-aided schools to develop their own policy on how they will address RSE within the curriculum, may be contrary to the UN Committee’s recommendation that meaningful sexual and reproductive health education is part of the mandatory school curriculum for all schools in Northern Ireland.[[1]](#footnote-2)

In June 2023, we welcomed the Relationships and Sexuality Education (Northern Ireland) (Amendment) introducing a mandatory requirement for the inclusion of age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion, for adolescents in the Northern Ireland curriculum. [[2]](#footnote-3)

The opportunity to respond to the Department of Education’s consultation is welcome.[[3]](#footnote-4) We note with disappointment the narrow focus of the consultation and would welcome the opportunity to engage further with the Department on the content of the guidance, in advance of its implementation.

* 1. **Children’s Rights**

The 54 Articles in the United Nations Convention on the Rights of the Child (UNCRC) outline the minimum standards for all children’s rights to protection, participation and the provision of services. Comprehensive RSE is relevant to a wide range of children’s rights, including their right to education (Articles 28 and 29); best interests (Article 2); right to health (Article 24); right to protection from violence and abuse (Article 19); right to survival and development (Article 6); right to identity (Article 8); non-discrimination / equality (Article 2), and freedom of thought, belief and religion (Article 14).

We draw attention to the UNCRC Committee’s concluding observations published in June 2023, recommending that the UK State Party,

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

The rights of the Convention are interdependent and indivisible – like children’s lives they cannot be compartmentalised nor are they negotiable. In developing the guidance, **we strongly recommend that the Department of Education undertakes a thorough Child’s Rights Impact Assessment (CRIA).** This will support the systematic assessment and communication of the impact of the draft guidance on the rights, needs and  best interests of children and young people. A CRIA should be an ongoing process that is subject to review, and updated as law, policy or practice develops. A post-implementation monitoring, and review mechanism should be established.[[4]](#footnote-5)

**2.0 General Comments**

For a policy to be child rights based, and to fully reflect the needs of young people, it is crucial that they are involved in its development in a meaningful way. NICCY is extremely concerned and disappointed that appropriate consultation mechanisms have not been put in place to ensure that young people are aware of, and can have their say, on changes to the RSE curriculum. The lack of meaningful engagement with young people in this consultation process comes only months after the publication of ETI’s Review of the Preventative Curriculum which highlighted considerable frustration among pupils at the lack of consultation on the content, relevance and delivery of the preventative curriculum.[[5]](#footnote-6)

We remind the Department that children have a right to participate in matters that affect them. As asserted in Article 12, State Parties have a responsibility to ‘*assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child’*.[[6]](#footnote-7)

To uphold this right, the Committee recommended, in 2023, that the State party,

*23 (a) Ensure the right of all children, including younger children, children with disabilities and children in care, to express their views and to have them taken into account in all decisions affecting them, including in . . .  education.’ and,*

*23 (b) Strengthen measures to promote the meaningful participation of children in family, community and school settings and in policymaking at the local and national levels, including on so-called reserved matters, and develop mechanisms to ensure that the outcomes of children’s and youth parliaments are systematically fed into public decision-making;[[7]](#footnote-8)*

NICCY considers the Department’s position that it was not possible to provide an alternative version of the Consultation Booklet specifically for young people in the given timeframe, as unacceptable. Furthermore, it our view that the questions contained in the consultation document have been framed and drafted in a manner that does not support young people in giving their views on this important matter.

We also consider that insufficient steps have been taken to raise awareness among a wide range of young people of the main consultation itself, and that their views are being sought.  This is of particular importance given recent campaigns of misinformation, as well as the content of the consultation which addresses important questions relating to both the content of RSE teaching and learning resources, and the rights of children, including their evolving capacities to make their own choices.

**NICCY strongly recommends that the Department implement appropriate mechanisms to ensure meaningful engagement with a diverse range of young people on the changes to the RSE curriculum as a priority and ensure that their voices and needs are reflected in the statutory guidance.**

Effective implementation of the Regulations requires that that teachers are fully supported to deliver the RSE curriculum specified by the legislation. As such, **the Department must ensure that teaching staff are provided with adequate training and professional development to ensure that they are confident in delivering RSE topics, including those relating to sexual and reproductive health, in a way that is inclusive and reflects the needs of all pupils.**

Universal access to sexual and reproductive health information and education is integral to improving the sexual health and well-being for all.[[8]](#footnote-9) For young people in particular, formal schooling is an important place for such education to be delivered. **In the case of young people who are not in school, or with low attendance rates, we advise that the Department’s guidance must address how delivery of comprehensive RSE will be ensured.**

Monitoring of the implementation of the Regulations will be critical. We welcome NICCY’s role in this process, provided for in the legislation, and expect to be later consulted to inform the implementation report which must be published by 1st September 2026. In terms of more immediate monitoring processes, we support the recommendation made by the NIHRC in their Reviewthat, **‘in line with the pre-existing arrangements for monitoring the delivery of the curriculum it is recommended that the ETI amend their oversight arrangements to ensure that schools are appropriately delivering the new elements of the Minimum Content Order. The ETI should develop new arrangements for engaging with children and young people during their assessment of RSE provision’**.[[9]](#footnote-10)

Boards of Governors have responsibility at school level for ensuring that age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion, is taught to pupils at key stage 3 and 4. **We advise that the guidance must include clear and relevant information for governors on their specific role and responsibilities in fulfilling their legal obligations.**

**Effective implementation of the statutory guidance will be contingent on adequate financial resourcing. A clear commitment from the Department is required in this respect.**

**3.0 Consultation Questions**

**Statement One:**  **The content of teaching and learning resources for Learning for Life and Work developed by CCEA** should be factual and contain age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion and these resources should **not advocate, or oppose, a particular view on the moral and ethical considerations of abortion or contraception.**

NICCY strongly agrees with the above statement. The importance of, and desire for, factual and contain age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion, for all young people is well documented.[[10]](#footnote-11) Since this is a requirement of the Regulations, we consider it unnecessary to seek views on this particular issue.

In implementing the guidance, RSE teaching and resources must be co-produced with children and young people to ensure their relevance and that they are fully reflective of their needs and lived experiences.

**We further advise that the guidance must specify that all RSE resources, including those produced by external agencies, must be subject to appropriate review by suitably quality persons, to ensure that they meet requisite standards, as a minimum, as detailed in the Regulations.**

RSE must be equally inclusive of and relevant to all young people, including LGBTQIA+ young people, pupils with SEND and ethnic minority young people.Thisissue was addressed by The Gillen Review which recommended that,

*The Department of Education should address the need to include in the school curriculum for disabled children, children with sensory disability and those who are members of marginalised communities’ sex education designed in a culturally sensitive manner on matters such as consent, personal space, boundaries, appropriate behaviour, relationships, fears of homophobia and transphobia, gender identity and sexuality.[[11]](#footnote-12)*

Implementing this recommendation will help to ensure that RSE protects the right of *all* young people to enjoy their sexuality within the highest attainable standard of health, free of coercion and violence, and to access quality sexuality education and sexual health services.[[12]](#footnote-13) While, currently, the delivery of RSE in schools is insufficient for *all* pupils, we are aware that the quality of RSE provision for young people from minority groups can be particularly poor. For example, we note with concern ETI’s finding that many schools in Northern Ireland avoid or cover with insufficient depth teaching relating to gender and sexual identity and LGBTQAI+ issues. Also of significance, is the report’s finding that ‘sexual identity’, ‘gender identity’ and ‘LGBTQ+’ are the highest-ranking areas of the curriculum in terms of insufficient training/teaching professional learning.[[13]](#footnote-14)

In implementing the Regulations, the Department must ensure that teaching and learning resources are LGBTQAI+ inclusive and that the needs of LGBTQAI+ pupils are reflected across the RSE curriculum. Moreover, teaching staff must be provided with training and professional development to ensure that they are confident in delivering topics and talking about a range of issues in a way that reflects the needs of LGBTQAI+ pupils.

In recognition of the particular risks and barriers faced by people with disabilities, the UNCRC Committee has recommended that State Parties must pay specific attention to the special needs relating to the sexuality of adolescents with disabilities and remove barriers that hinder adolescents with disabilities in realising their rights.[[14]](#footnote-15) Research indicates, for example, that disabled people are disproportionately affected by sexual violence and may be more vulnerable to HIV infection.[[15]](#footnote-16) Regarding the delivery of RSE in NI schools, ETI’s Review highlighted a lack of bespoke resources for pupils with severe learning difficulties (SLD) in special schools, while, on the issue of consent, it was reported that teachers can find the topic challenging to teach, particularly to pupils who have severe learning difficulties or autism.[[16]](#footnote-17) It is vital that RSE teaching and learning resources are specifically tailored and delivered in a way that reflects the diversity of pupils with SEND within the school population.

While essentially the same RSE topics will be covered for pupils with SEND, RSE teaching must be tailored as appropriate to remove any potential barriers to learning. This may require adjustments to the pace, level of detail, and specific design of resources to ensure that they are accessible and developmentally appropriate. For pupils with more severe learning needs, it may be necessary to assess specific RSE needs as part of an agreed Care Plan. **Engagement with young people with SEND and their parents to discuss specific needs including reasonable adjustments should be undertaken as appropriate.**

**NICCY strongly advises that RSE teaching and learning resources must be fully inclusive of all sexual and gender identities, pupils with SEND, pupils from ethnic minority backgrounds, newcomer pupils and those in Irish medium education.**

**In developing RSE resources, there should be engagement with relevant stakeholders and young people themselves to ensure accessibility, quality and that they are reflective of the needs of all young people.**

**Statement Two:** Parents/carers should be informed about the specific nature and content of the age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion.

In principle, NICCY is supportive of parents being informed about their child’s education including RSE. Research indicates that involving parents in their child’s education is beneficial and, in the case of relationship and sexuality education, can enhance effectiveness.[[17]](#footnote-18) Sharing information with parents on their child’s RSE may help to alleviate any fears, allow parents to reinforce key messages at home and assist them in supporting their child to make informed choices.[[18]](#footnote-19) While, in principle, we do not object to statement two, we strongly caution against an approach that positions age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion, as a particularly ‘sensitive’ or controversial issue.

**NICCY recommends that the guidance specifies that information provided to parents must be clear, consistent, up-to-date, evidence-based and focused on the benefits of age-appropriate, comprehensive and scientifically accurate curriculum-based education on sexual and reproductive health and rights.**

**Statement Three: The United Nations Convention on the Rights of the Child** includes at Articles 1-3 and 12 the rights of the child to ‘**express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously’** and at Article 5 ‘**the rights and responsibilities of parents and carers to provide guidance and direction to their child as they grow up so that they fully enjoy their rights. This must be done in a way that recognises the child’s increasing capacity to make their own choices.’** The Department’s guidance, when developed, should consider in such instances how schools balance the rights of both children and parents/carers in implementing the regulations.

NICCY welcomes the reference to children’s rights in Statement three, including Article 1 (definition of the child); Article 2 (right to non-discrimination), Article 3 (best interests of the child), Article 5 (parental guidance and evolving capacities) and Article 12 (the right of the child to express views and have them taken seriously). However, we believe that greater detail on these rights, and their specific relevance to the drafting and implementation of guidance on RSE, would have been helpful, particularly for respondents who may have limited or no knowledge of the Convention. It would also have been appropriate to include this information as background information to Statement three.

We consider that statement three is poorly drafted. Our reading of the statement is that it is asking about the parental opt-out clause that is contained within the Regulations, namely that, ‘ *the Department must by regulations make provision about the circumstances in which, at the request of a parent, a pupil may be excused from receiving the education required to be provided by virtue of Article 5(1A), or specified elements of that education*.’[[19]](#footnote-20) If this is the case, this should have been made explicit, to ensure relevant responses from respondents, including those who may be less familiar with the specific detail of the Regulations. This is of particular concern given that the Department has indicated they expect young people to respond to this questionnaire in the absence of provision of a specific young person’s version. In this context, which we have followed up separately with the Permanent Secretary, NICCY would have expected, as a minimum, that the questions would be articulated in a way that ensures clarity and understanding.

Statement three refers to the balancing of the rights of children and parents/carers, which implies a tension or conflict between these rights. We do not consider that this particular framing is helpful, appropriate or indeed accurate. **The statutory guidance must clearly reflect and distinguish between the rights of children and the rights and responsibilities of parents, and States.** The Committee, in their Statement on Article 5,[[20]](#footnote-21) reaffirm:

* Children’s status as rights holders independently from their parents. The concept of evolving capacities is central to this.
* As they grow, develop, mature, and expand their social circle beyond their family, children are entitled to an increasing level of responsibility, agency, and autonomy in the exercise of their rights.
* Children’s evolving capacities must be recognized and respected by those adults who provide direction and guidance over children’s lives.
* In the exercise of their rights, children should receive appropriate direction and guidance by parents.

*In relation to the principle of* ***evolving capacities****,**the Committee clarifies that:*

* The concept of children’s evolving capacities is central to the recognition of children’s status as rights-holders independently from their parents and contributes to protecting the child from arbitrary family control.
* It establishes that when children reach a sufficient level of maturity and capacity to exercise their rights independently, there will be a decreasing need for parental direction and guidance.
* As children acquire capacities, they are entitled to an increasing level of responsibility for the regulation of matters affecting them.
* Evolving capacities should be seen as a positive and enabling process, not an excuse for authoritarian practices that restrict children’s autonomy and self-expression, and which are often inaccurately justified by pointing to children’s relative immaturity.
* The Committee recalls the importance of parents’ responsibility to continually adjust the levels of support and guidance they offer to a child. These adjustments should take account of children’s interests and wishes as well as the children’s capacities for autonomous decision-making and comprehension of their best interests.

*In relation to parental rights, responsibilities and obligations, the Committee reaffirms that:*

* Parents’ responsibilities, rights and duties to guide their children **are not absolute** but, rather, delimited by children’s status as rights holders.
* Parents must exercise direction and guidance in a manner that respects and ensures children's rights.
* The direction and guidance provided by parents should aim at the harmonious development of children to their fullest potential and should enable them to gradually exercise their rights.
* As per Article 18, the best interests of the child will be their basic concern. Soliciting and hearing children’s views are requirements, both when providing direction and guidance, and when assessing and determining the child’s best interests.
* When children reach a sufficient level of maturity and capacity to exercise their rights independently, there will be a decreasing need for parental direction and guidance.
* Parents have a responsibility to continually adjust the levels of support and guidance they offer to a child. Adjustments should take account of children’s interests and wishes, as well as the children’s capacities for autonomous decision-making and comprehension of their best interests.

This is the context in which the Regulations, including the provision for a parental-opt out, must be implemented and it is crucial that there is understanding of this by all parties, including children and young people. The campaign of misinformation around the new RSE regulations reinforces the importance of ensuring that, in particular, the limitations on parents’ responsibilities, rights and duties to guide their child are fully understood.

The wording of the final sentence in statement three - ‘*the Department’s guidance, when developed, should consider in such instances how schools balance the rights of both children and parents/carers in implementing the regulations’ -* could be interpreted as implying that the onus is on schools to ensure the effective implementation of the regulations**.** This may simply be a case of unclear drafting. However, **we strongly advise that the statutory guidance must be written in a way that clearly reflects that the Department’s overall responsibility for the implementation of the Regulations and for ensuring that children’s rights to age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion, are upheld**. In this respect, the guidance must clearly articulate both children’s rights in respect of RSE and parental responsibilities in ensuring these rights are upheld.

Statement three refers to ‘*the rights and responsibilities of parents and carers to provide guidance and direction to their child’*, as per Article 5. We note that the term ‘*appropriate*’, which should precede ‘*guidance and direction’*, has been omitted. Although this may be an oversight, we advise that the term ‘appropriate’ is in integral to a full understanding of this particular element of Article 5 and must be reflected in the guidance. The UNCRC Committee, in their statement on Article 5, caution against highlighting the rights of parents without also mentioning ‘*appropriate direction and guidance’,* noting that to do so is contrary to an accurate and holistic understanding of the article 5. This issue is also addressed by Lansdowne who notes that,

*‘. . . by inserting the word ‘appropriate’, Article 5 removes any suggestion that parents or other caregivers have carte blanche to provide whatever direction or guidance they happen to believe suitable. It must be directed towards promoting respect for the rights of the child, and parents must respect the extent to which the child is capable of exercising those rights on his or her own behalf’.[[21]](#footnote-22)*

NICCY strongly agrees, as indicated in statement three, that parents and carers have a responsibility provide guidance and direction to their child in a way that recognises the child’s increasing capacity to make their own choices.This has been recently reaffirmed by the Committee in their Statement on Article 5, published in October 2023.[[22]](#footnote-23) In their statement, the Committee provide clarification of the concepts of **parental guidance** and **evolving capacities of the child** enshrined in article 5. These concepts are highly relevant to the implementation of the Regulations. We therefore expect the guidance to engage with them and to provide clarification of what they mean in practice in implementing the Regulations, including in relation to the provision for a parent to withdraw their child from specified aspects of RSE.

We emphasise that NICCY strongly objects to the provision within the Regulations for parents to opt-out their child from specific elements of RSE. This is contrary to the Committee’s recommendation referenced above, at section 1.1. The importance and benefits of comprehensive and universal RSE for young people are well evidenced and undeniable. Excluding individual young people from important aspects of RSE has the potential to them cause significant harm, by reducing their agency to make empowered decisions about their sexual health and relationships, and increasing their vulnerability to harmful sexual behaviours, abuse, sexual exploitation and unsafe practices.[[23]](#footnote-24) High quality, comprehensive RSE also plays a critical role in gender equality and we therefore have significant concerns about the potential gendered impacts of pupils’ withdrawal from RSE relating to sexual and reproductive health and rights, including the prevention of early pregnancy and access to abortion.

**NICCY advises that the circumstances for excusing a pupil at the request of a parent must be tightly defined within the Department’s guidance. As a minimum, we advise that the guidance must:**

* Ensure that a suitable mechanism is put in place to ensure that in this context all young people are given appropriate opportunities to have their voices heard and to input to decision making about their participation in RSE;
* Clearly and narrowly define the specific aspects of RSE that the parental opt-out is applicable to;
* Give clear direction to schools on what their responsibilities are in the implementation of the parental opt-out provision; this should include discussion on benefits of participation for the young person and potential harm caused by withdrawal. Relevant resources and information should be shared with parents to support learning at home in the case of withdrawal;
* Specify data that must be recorded in relation to the withdrawal of pupils from specific elements of RSE. This should include disaggregated data on pupils affected including protected characteristics and any additional needs; the views of the young person and their involvement in decision making processes; the information provided by schools to parents and young people regarding the benefits and importance of participation; the rationale and justification for withdrawal.

Article 5 establishes that when children reach a sufficient level of maturity and capacity to exercise their rights independently, there will be a decreasing need for parental direction and guidance. While it is our overall position that there should be no provision for withdrawal, we recognise the Regulations require this and **support the approach that is taken in the statutory guidance in England**, which stipulates that,

*47. Once … discussions have taken place, except in exceptional circumstances, the school should respect the parents’ request to withdraw the child,* ***up to and until three terms before the child turns 16.*** *After that point, if the child wishes to receive sex education rather than be withdrawn, the school should make arrangements to provide the child with sex education during one of those terms.*

*48. This process is the same for pupils with SEND. However there may be exceptional circumstances where the head teacher may want to take a pupil’s specific needs arising from their SEND into account when making this decision. The approach outlined above should be reflected in the school’s policy on RSE.[[24]](#footnote-25)*

Key points from the UNCRC’s statement on Article 5 were summarised above, with particular reference to children as right-holders, evolving capacities, the responsibilities and rights of parents/carers in providing appropriate guidance to children. **We advise that the key points from the Committee’s Statement on Article 5 should be considered and reflected in the drafting of statutory guidance.[[25]](#footnote-26)**

We note that the Committee’s Statement on Article 5 also draws attention to the responsibility of States to build the capacity of parents, extended families, legal guardians and community members to provide appropriate direction and guidance to children. In this context, **this will require a clear understanding by parents of the importance and benefits of comprehensive, factual and scientifically accurate RSE. We advise that Department of Education take relevant steps to address this for parents in this respect.**

Following the implementation of the Regulations, there must be robust monitoring to identify how the withdrawal provision is being implemented in practice by schools; the number of young people affected; the characteristics of those young people; and the specific impact on their access to RSE. Monitoring should also ascertain the information and guidance that has been provided to parents, including in relation to addressing misunderstandings about the nature, purpose and effects of RSE. **We recommend that the guidance includes specific details of monitoring processes, including how frequently this will be undertaken and by whom, in respect of the parental withdrawal provision.**

**Statement Four:**  Pupils and parents/carers should have access to an overview of their school’s RSE policy and planned RSE programme.

NICCY agrees that pupils and parents/carersshould be able to access an overview of **all** schools’ policies and curriculum programmes, including those that relate to RSE. Many parents will wish to support their child’s learning about relationships and sexuality at home and access to policies and programmes can support this. WHO standards for sexuality education highlights that a participatory approach to sexuality education that involves different ‘partners’, including parents/carers and young people themselves, leads to improved outcomes and empowerment.[[26]](#footnote-27) The proposal at statement four aligns with this standard and we therefore agree in principle.

**4.0 Summary of Recommendations**

1. We strongly recommend that The Department of Education undertakes a thorough Child’s Rights Impact Assessment (CRIA).
2. We strongly recommend that the Department implement appropriate mechanisms to ensure meaningful engagement with a diverse range of young people on the changes to the RSE curriculum, as a priority, and ensure that their voices and needs are reflected in the guidance.
3. The Department must ensure that teaching staff are provided with adequate training and professional development to ensure that they are confident in delivering the RSE topics, including those relating to sexual and reproductive health, in a way that is inclusive and reflects the needs of all pupils, including LGBTQAI+ pupils and pupils with SEND.
4. In the case of young people who are not in school, or with low attendance rates, we advise that the Department’s guidance must address how delivery of comprehensive RSE will be ensured.
5. We support the NIHRC’s recommendation, ‘in line with the pre-existing arrangements for monitoring the delivery of the curriculum it is recommended that the ETI amend their oversight arrangements to ensure that schools are appropriately delivering the new elements of the Minimum Content Order. The ETI should develop new arrangements for engaging with children and young people during their assessment of RSE provision.’
6. We advise that the guidance must include clear and relevant information for governors on their specific role and responsibilities in fulfilling their legal obligations.
7. Effective implementation of the statutory guidance will be contingent on adequate financial resourcing. A clear commitment from the Department is required in this respect.
8. We advise that the guidance must specify that all RSE resources, including those produced by external agencies, must be reviewed to ensure that they meet requisite standards, as a minimum, those detailed in the Regulations.
9. Engagement with young people with SEND and their parents to discuss specific needs including reasonable adjustments should be undertaken as appropriate.
10. NICCY strongly advises that RSE teaching and learning resources must be fully inclusive of all sexual and gender identities, pupils with SEND, pupils from ethnic minority backgrounds, newcomer pupils and those in Irish medium education.
11. In developing RSE resources, there should be engagement with relevant stakeholders and young people themselves to ensure accessibility, quality and that they are reflective of the needs of all young people.
12. NICCY recommends that the guidance specifies that information provided to parents must be clear, consistent, up-to-date, evidence-based and focused on the benefits of age-appropriate, comprehensive and scientifically accurate curriculum-based education on sexual and reproductive health and rights.
13. The guidance must clearly reflect and distinguish between the rights of children, and the rights and responsibilities of parents, and States, as addressed in the Committee’s Statement on Article 5.
14. We strongly advise that the statutory guidance must be written in a way that clearly reflects that the Department’s overall responsibility for the implementation of the Regulations and for ensuring that children’s rights to age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion are upheld.
15. NICCY advises that the circumstances for excusing a pupil from RSE at the request of a parent must be tightly defined within the Department’s guidance. As a minimum, we advise that the guidance must:
* Ensure that a suitable mechanism is put in place to ensure that in this context all young people are given appropriate opportunities to have their voices heard and to input to decision making about their participation in RSE;
* Clearly and narrowly define the specific aspects of RSE that the parental opt-out is applicable to;
* Give clear direction to schools on what their responsibilities are in the implementation of the parental opt-out provision; this should include discussion of benefits of participation for the young person and potential harm caused by withdrawal. In the case of withdrawal, relevant resources and information should be shared with parents to support learning at home;
* Specify data that must be recorded in relation to the withdrawal of pupils from specific elements of RSE. This should include disaggregated data on pupils affected including protected characteristics and any additional needs; the views of the young person and their involvement in decision making processes; the information provided by schools to parents and young people regarding the benefits and importance of participation; the rationale and justification for withdrawal.
1. NICCY strongly supports the approach that is taken in the statutory guidance in England, which stipulates that,

*47. Once … discussions have taken place, except in exceptional circumstances, the school should respect the parents’ request to withdraw the child, up to and until three terms before the child turns 16. After that point, if the child wishes to receive sex education rather than be withdrawn, the school should make arrangements to provide the child with sex education during one of those terms.*

*48. This process is the same for pupils with SEND. However there may be exceptional circumstances where the head teacher may want to take a pupil’s specific needs arising from their SEND into account when making this decision. The approach outlined above should be reflected in the school’s policy on RSE.*

1. [tbinternet.ohchr.org/\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FGBR%2FCO%2F6-7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FGBR%2FCO%2F6-7&Lang=en) [↑](#footnote-ref-2)
2. [The Relationships and Sexuality Education (Northern Ireland) (Amendment) Regulations 2023 (legislation.gov.uk)](https://www.legislation.gov.uk/uksi/2023/602/contents/made) [↑](#footnote-ref-3)
3. Consultation on legislation which provides for a parent/carer to request to have their child excused from age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion. [↑](#footnote-ref-4)
4. [Child Rights Impact Assessment (CRIA) - Niccy](https://www.niccy.org/what-we-do/training/cria/) [↑](#footnote-ref-5)
5. [The preventative curriculum in schools and Education Other Than at School (EOTAS) centres (etini.gov.uk)](https://www.etini.gov.uk/sites/etini.gov.uk/files/publications/the-preventative-curriculum-in-schools-and-education-other-than-at-school-eotas-centres_0.pdf) [↑](#footnote-ref-6)
6. [Convention on the Rights of the Child | OHCHR](https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child) [↑](#footnote-ref-7)
7. [Convention on the Rights of the Child | OHCHR](https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child) [↑](#footnote-ref-8)
8. United Nations, *Transforming Our World: 2030 Agenda for Sustainable Development*

(New York: United Nations, 2015). [↑](#footnote-ref-9)
9. [FINAL RSE REPORT CONFIDENTIAL NOT WATERMARKED (6).pdf](file:///C%3A/Users/Arlene.Robertson1/Downloads/FINAL%20RSE%20REPORT%20CONFIDENTIAL%20NOT%20WATERMARKED%20%286%29.pdf) Recommendation five. [↑](#footnote-ref-10)
10. [The preventative curriculum in schools and Education Other Than at School (EOTAS) centres (etini.gov.uk)](https://www.etini.gov.uk/sites/etini.gov.uk/files/publications/the-preventative-curriculum-in-schools-and-education-other-than-at-school-eotas-centres_0.pdf); [Filetoupload,1005261,en.pdf (qub.ac.uk)](https://www.qub.ac.uk/research-centres/CentreforChildrensRights/CCRFilestore/Filetoupload%2C1005261%2Cen.pdf); [International technical guidance on sexuality education. An evidence-informed approach (who.int)](https://www.who.int/publications/m/item/9789231002595) [↑](#footnote-ref-11)
11. [gillen-report-may-2019.pdf (justice-ni.gov.uk)](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/gillen-report-may-2019.pdf) [↑](#footnote-ref-12)
12. [International technical guidance on sexuality education. An evidence-informed approach (who.int)](https://www.who.int/publications/m/item/9789231002595) [↑](#footnote-ref-13)
13. [The preventative curriculum in schools and Education Other Than at School (EOTAS) centres (etini.gov.uk)](https://www.etini.gov.uk/sites/etini.gov.uk/files/publications/the-preventative-curriculum-in-schools-and-education-other-than-at-school-eotas-centres_0.pdf) [↑](#footnote-ref-14)
14. [General comment No. 1: Reporting obligation (ohchr.org)](https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/Health/GC4.pdf) [↑](#footnote-ref-15)
15. [Prevalence and risk of violence against adults with disabilities: a systematic review and meta-analysis of observational studies - PubMed (nih.gov)](https://pubmed.ncbi.nlm.nih.gov/22377290/) [↑](#footnote-ref-16)
16. [The preventative curriculum in schools and Education Other Than at School (EOTAS) centres (etini.gov.uk)](https://www.etini.gov.uk/sites/etini.gov.uk/files/publications/the-preventative-curriculum-in-schools-and-education-other-than-at-school-eotas-centres_0.pdf) [↑](#footnote-ref-17)
17. [International technical guidance on sexuality education. An evidence-informed approach (who.int)](https://www.who.int/publications/m/item/9789231002595) [↑](#footnote-ref-18)
18. [niact-annual-review-2022 (2).pdf](file:///C%3A/Users/Arlene.Robertson1/Downloads/niact-annual-review-2022%20%282%29.pdf) [↑](#footnote-ref-19)
19. [The Relationships and Sexuality Education (Northern Ireland) (Amendment) Regulations 2023 (legislation.gov.uk)](https://www.legislation.gov.uk/uksi/2023/602/regulation/2/made). Note that, Article 5 (1A) states ’The curriculum for every grant-aided school shall, in relation to key stages 3 and 4, include age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion.”. [↑](#footnote-ref-20)
20. [Article 5 (ohchr.org)](https://www.ohchr.org/sites/default/files/documents/hrbodies/crc/statements/CRC-Article-5-statement.pdf) [↑](#footnote-ref-21)
21. Lansdown, Gerison (2005). The Evolving Capacities of the Child, *Innocenti Insights*, no. 11. [↑](#footnote-ref-22)
22. [Article 5 (ohchr.org)](https://www.ohchr.org/sites/default/files/documents/hrbodies/crc/statements/CRC-Article-5-statement.pdf) [↑](#footnote-ref-23)
23. [International technical guidance on sexuality education. An evidence-informed approach (who.int)](https://www.who.int/publications/m/item/9789231002595) [↑](#footnote-ref-24)
24. [Relationships Education, Relationships and Sex Education and Health Education guidance (publishing.service.gov.uk)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1090195/Relationships_Education_RSE_and_Health_Education.pdf) [↑](#footnote-ref-25)
25. [Article 5 (ohchr.org)](https://www.ohchr.org/sites/default/files/documents/hrbodies/crc/statements/CRC-Article-5-statement.pdf) [↑](#footnote-ref-26)
26. [WHO Standards for Sexuality Education in Europe 2010.pdf](file:///C%3A/Users/Arlene.Robertson1/Downloads/WHO%20Standards%20for%20Sexuality%20Education%20in%20Europe%202010.pdf) [↑](#footnote-ref-27)