

WELSH GOVERNMENT INTEGRATED IMPACT ASSESSMENT

CURRICULUM FOR WALES – ENSURING ACCESS TO THE FULL CURRICULUM

January 2020 (v3)

CONTENTS

Section 1. What action is the Welsh Government considering and why?	3
Section 2. What will be the effect on social well-being?	11
Section 3. What will be the effect on cultural well-being and the Welsh language?	14
Section 4. What will be the effect on economic well-being?	15
Section 5. What will be the effect on environmental well-being?	16
Section 6. Record of Full Impact Assessments Required	17
Section 7. Conclusion	18
Full Impact Assessments	21
A. Children’s Rights Impact Assessment	21
B. Equality Impact Assessment	26
C. Welsh Language Impact Assessment	40

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.

The integrated impact assessment covers two key areas:-

1. Right to Withdraw from Religious Education (RE) and Relationships and Sexuality Education (RSE);
2. Change of name for RE.

Right to Withdraw from RE and RSE

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 that 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.

In January 2019, the Transformational Curriculum: The Curriculum and Assessment White Paper¹ was published. Views on the issue of having a right to withdraw in the new curriculum were sought, specifically whether it should be included and what should happen if it were not. Some 89 per cent (1,421) of respondents to the White Paper felt the right to withdraw should be retained. The White Paper did not however include a specific legislative proposal in relation to right to withdraw.

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

¹ i.e. maintained schools and funded nursery settings

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 that enables them to progress in relation to the four purposes.

To this end, we believe that the new curriculum should not include the right to withdraw and given the responses to the White Paper, we undertook a consultation, on 'Ensuring access to full curriculum', proposing that the new curriculum should not include a right to withdraw to get further views on the implications of doing so.

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 proposed changing 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.

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.

Not including 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.

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".

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 not including the right to withdraw in the new curriculum directly contribute to prevention by ensuring learners receive learning about 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 policy to ensure access to the new curriculum for all learners 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 for the consultation, we:-

- discussed the potential implications of this proposal with a range of people with an interest;
- undertook 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 in February 2019. Following the consultation, it was clear further refinement of the guidance is needed, making it more detailed given the sensitive and specialist nature of the subject, the need for guidance to be clear on what children will learn about and that parents are able to engage with schools.

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.

It is worth noting the developments in these policy areas in other parts of the UK.

In relation to religious education, the current position is consistent across the rest of UK – RE is a statutory part of the curriculum for all pupils of compulsory school age and their parents have the Right to Withdraw them from some or all of this.

However, there are differences in relation to RSE. In Northern Ireland, it is a compulsory element of the school curriculum from compulsory school age as part of the personal development and mutual understanding area of learning. Whilst there is no legislative provision on Right to Withdraw, the guidance says that any requests from a parent or carer to withdraw a child from all or part of RSE should, following discussion of the potentially detrimental effect, should be respected. In Scotland, Relationships, Sexual Health and Parenthood (RSHP) is part of the Health and Wellbeing area of the Curriculum for Excellence. As in Northern Ireland, the guidance provides a right for parents to withdraw their child from a “sexual health programme” within RSHP. Unlike in Northern Ireland, the Scottish guidance provides that secondary school age children can make the decision to withdraw (depending on their maturity and understanding) and this decision must also be respected.

In England, recent reforms mean that, from September 2020, relationships education will be compulsory for all primary pupils and RSE for all secondary pupils. At secondary level, parents have the right to request that their child be withdrawn from some or all of sex education delivered as part of compulsory RSE. Such requests should be granted, except in exceptional circumstances. The guidance also says head teachers should automatically grant requests from parents to withdraw primary pupils from any sex education. There is no right of withdrawal from relationships education (though the guidance does not distinguish which is which). It also provides that, three terms before a withdrawn child turns 16, s/he can opt to receive sex education rather than be withdrawn.

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 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 convened a series of focus groups to explore these issues with children and young people, parents and practitioners.

We conducted an eight week consultation in October and November 2019 on proposals to rename RE and not include a right to withdraw from RE and RSE in the new curriculum for Wales to explore people’s views and perspectives towards the proposals. The consultation specifically sought respondents’ views on the practical implications of the proposal to ensure access to the new curriculum for learners, parents and carers, and for schools more broadly.

Respondents were then asked what support, information and guidance would be needed if the approach contained in the proposals were adopted. This sought to explore the practical steps that the Welsh Government and the education community could take to address any concerns held by respondents.

Respondents were offered a range of opportunities to feed back their views and perspectives on the proposals, including online, via email and post, and in person and over 1,600 responses were received. The Welsh Government commissioned Wavehill, an independent research organisation, to conduct an analysis of responses. The analysis set out to understand and map the range of views and perspectives held by respondents towards the proposals surrounding RE and RSE.

Children and young people as well as parents and carers were also invited to attend focus groups set up as part of our engagement activities. These groups sought to explore their views in more detail. The children and young people's focus groups were organised and run by Dynamix, a specialist research organisation that draws on creative and participatory approaches to exploring people's views.

The focus groups aimed at parents and carers were organised and run by Wavehill' staff. These were conducted in schools across Wales, including schools with a religious character and with parents of children and young people from specific backgrounds or faiths. Eight groups were held in total in which 65 parents and carers offered their views and perspectives. These included parents and carers of children and young people at 4 primary schools, 3 secondary schools, and one Additional Learning Needs (ALN). Protected characteristic groups included schools with a religious character and one that educated many children and young people from the traveller community.

In addition to the formal consultation, Welsh Government identified a number of cohorts (Welsh Faith and Black, Asian and Minority ethnic (BAME) communities) where one-to-one engagement would be required to ensure Welsh Government had a full and accurate understanding of different communities' opinions regarding the proposals.

The engagement work was carried out by Re:cognition. The aim of this work was to 'deep dive' into the communities via community leaders, gatekeepers, and faith leaders to gather a detailed understanding of the reactions, impressions and reflections on this subject from the identified communities both from cultural and religious perspectives.

The Welsh Government is committed communication clearly to inform people living in Wales of our vision of a fully inclusive education system where all learners have the equity of access to education that meets their needs and enables them to participate in, benefit from, and enjoy learning. The engagement work with faith groups and BAME communities also sought to identify barriers and test possible interventions to assist in engaging and informing key stakeholders, congregations and communities in any possible future engagement on these issues and our policy direction going forward.

A key theme from respondents to the consultation, including those that were broadly supportive and opposed the proposal, was the importance of clarifying and communicating what would be taught in RE and particularly in RSE. Many respondents believed that if the proposals were to be introduced, it would be important to ensure that parents and carers were fully informed about the content of teaching and when these lessons would take place

Following this consultation, we will be continuing with a program of meaningful and sustained engagement with schools, parents and carers, learners, different faith groups and BAME communities, particularly about the content of RSE in the new curriculum and the way in which it will be taught. We will be creating a Faith/BAME Community Involvement Group as part of the policy development process as a means to develop an evidence base which includes lived experience and the views and aspirations of key stakeholders.

The purpose of this Involvement Group is to:

- allow interested groups and individuals to feed their perspectives into the development of the proposals relating to Sexuality and Relationships Education and Religious Education in Wales;
- explore the varying religious and BAME community perspectives and identify possible approaches to implementation at an operational level, in particular how relevant stakeholders will be required to act within the new curriculum requirement proposals;
- develop a shared understanding of how the curriculum reforms and specifically the proposals relating to Sexuality and Relationships Education and Religious Education in Wales will be implemented in practice;
- help facilitate the dissemination of accurate information;
- develop an understanding of information requirements for schools, parents and civic society.

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 that 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 small number of learners are withdrawn.

Therefore, this policy will directly affect a small number of people, although there are implications for different groups and these are considered in the equality impact assessment at Annex B.

In proceeding with our proposal, we will need to monitor the number of children who are no longer registered in a maintained school.

Change of name for Religious Education

The consultation on 'Ensuring Access to the Full Curriculum' proposed a change to the name of Religious Education, so that it appropriately reflects teaching practice within the new curriculum, and allows for the exploration of all religious and philosophical beliefs, as well as other beliefs and world-views, including non-religious world views. The following options were consulted on:

- No change;
- Religion, values and ethics;
- Religions and worldviews;
- Other (please specify).

Prior to undertaking the consultation, we did not anticipate that there would be any significant impact as a result of changing the name of this subject area. We expected that people might have concerns that this would mean that learning about religions and religious tenets becoming a less important part of the subject area.

There were around 1,600 responses to the consultation and all except 103 responses provided views. The breakdown of the responses in relation to whether the subject should be renamed is as follows:

- a. 38% (606 responses) of respondents explicitly stated they did not want to see a change in the name of RE;
- b. 55% (875 responses) suggested RE should be renamed, but this total is split across different suggested names outlines below;
- c. 7% (103 responses) did not offer any views towards the renaming.

It is clear from the responses that there is significant difference of views in relation to whether the name should change and what any new name should be.

Our original proposal was to change the name to Religions and Worldviews, based on recommendations of the Commission on Religious Education's report for England. This name was supported by about a quarter of the respondents who agreed the name should be changed. The other possible name we consulted on was "Religion, Values, and Ethics" and this name was supported by 43% of those who thought it should be renamed. On this basis, we will re-name RE to 'Religion, Values and Ethics' in the new curriculum.

The content of RE and RSE

The importance of clarifying and communicating what would be taught in RE and, in particular, RSE was emphasised by many respondents, including those who were broadly supportive of and opposed to the proposals. They believed that if the proposals were to be introduced, it would be important to ensure that parents and carers were fully informed of the content of teaching and when these lessons would take place.

It was suggested in responses that fully informing parents of the content of lessons could address concerns that parents may have with regard to the appropriateness of what is being taught. This finding was confirmed in conversations with parents and carers in focus groups. Where parents expressed concerns when they were provided with clarification including examples of what might be taught, they tended to soften their opposition to the proposals.

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 policy should improve health determinants.

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

The policy relate to learners of statutory school age. The policy 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 being carried out.

2.6 Privacy

A privacy impact assessment is not required 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 policy will improve 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 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.

The policy may have a small direct impact on businesses as there is a possibility that some parents may withdraw from work to home school their children. However, we envisage this to be a low impact.

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 policy 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 and community engagement is underway. We have 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. We carried out a further consultation to get a full understanding of the range of views on the implications of the consultation proposals. We carried out the following activities during the consultation and their input and responses helped inform the direction of the policy:-

- Focus groups aimed parents and carers. Eight focus groups were conducted across Wales which 65 parents and carers offered their views and perspectives. These included parents and carers of children and young people at 4 primary schools, 3 secondary schools, and one Additional Learning Needs (ALN). Protected characteristic groups included schools with a religious character and one that educated many children and young people from the traveller community.
- Focus groups for Children and Young People across Wales as well as CYP consultation and online survey including input from a Youth Parliament event. Twenty CYP focus groups took place during 8 – 28 November 2019 at ten Primary schools, eight Secondary schools and with two protected characteristic groups. A total of 279 participants provided feedback through the focus groups and the online survey which were analysed.
- One to one community engagement activities involving a number of Faith and community groups to get their views on the proposals from their perspectives and from their communities.

The content of RE and RSE within the new curriculum is being co-constructed. For RE, a new supporting framework is being developed by a group of practitioners, Pioneers, academics, 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.

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

The most significant direct impacts would be on parents and carers of learners in the new curriculum. On the positive side, their children will be able to access a curriculum which enables them to progress in relation to the four purposes in an education system designed

to play its part in creating a more given inclusive and tolerant society, maximising its contribution to the well-being goals in the Well-being of Future Generations Act.

On the negative side, they would not be able to withdraw their children from RE or RSE lessons in the new curriculum. A significant area of concern to the consultation responses was the perceived erosion of the rights of parents and carers contained within the proposals.

It would also have a negative impact on learners who otherwise could be withdrawn from maintained schools by their parents and carers. RSE and RE would become mandatory elements of the new curriculum. Today, 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 policy being implemented 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 published an initial impact assessment as part of a consultation asking for views on the implications of the proposal.

We have carefully considered the feedback received as part of this consultation and community engagement work and there are a number of actions which have been identified as part of the wider Curriculum Reform work to support both statutory RSE and RE when the new curriculum is introduced in 2022. These actions include:

- for RSE, legislation to specify in a Code the core learning to be covered so there is consistency in RSE provision and transparency for parents. Clear provision in guidance on topics to cover in RSE, including on age / developmental appropriateness.
- For RE, consultation on a framework to support teaching and learning has been developed using a co-construction approach accompanied by a clear and proactive plan for ongoing communication with parents and wider communities and interests.

The framework will outline how RE forms a part of Humanities AoLE. It will take into account the wider principles of the curriculum including progression steps.

- Ongoing community engagement programme ensuring any myths about RE and RSE are dispelled. Part of this programme will involve setting up a Faith/BAME Involvement Group. This group will consist of members of the both community and faith groups to feed into the co-construction of RSE guidance, working with key stakeholders including practitioners and faith organisations and taking on board consultation responses and community engagement work.
- Testing the new approach to RSE in schools ahead of 2022 and sharing that experience.

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 policy will primarily 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 to gather data on the use of the use of the 'right to withdraw', data is limited. However, we have obtained anecdotal evidence from education practitioners that only a 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.

In October 2019, the Welsh Government undertook a further consultation on the implications of a policy not to include a right to withdraw in the new curriculum and we received 1,600 responses to this consultation. For those broadly in support of the proposals, respondents raised a number of potential benefits of delivering RE and RSE, including:

- Informing children and young people, giving them the knowledge and skills with which to understand and connect with different people, communities, traditions, faiths and worldviews.
- Promoting tolerance, that a pluralistic and neutral education would promote positive engagement with, and understanding of, difference.
- Improving the well-being of learners, including their social, emotional and physical development.

For those respondents broadly opposed to the proposals, they tended to focus on the appropriateness of the provision and a significant concern was the perceived erosion of the rights of parents and carers in the proposals.

Where there are differences of opinion in the consultation responses, these tended to focus on either:

- Concerns surrounding the **appropriateness and sensitivity of provision**; or
- The importance of receiving a **broad, balanced and informed** education.

Within these two distinct viewpoints, there was considerable diversity in the substantive issues and emphasis of responses. Viewpoints were often strongly held and expressed, highlighting the importance placed by many respondents upon children and young people's social, emotional, spiritual or moral development.

It was felt amongst respondents both broadly in favour of and opposed to the proposals that information and communication were key. It was suggested in responses that fully informing parents of the content of lessons could address concerns that parents may have with regard to the appropriateness of what is being taught. This finding was confirmed in conversations with parents and carers in focus groups. Where parents expressed concerns when they were provided with clarification including practical examples of what might be taught, they tended to soften their opposition to the proposals.

Around the same time, the Welsh Government issued a Children and Young People's consultation and commissioned Dynamix, a specialist research organisation that draws on creative and participatory approaches, to undertake Children and young people's focus groups to explore people's views.

The consistent theme from children and young people was that these changes for RSE could lead to more informed and more tolerant learners and school environment, which could positively affect parents by ensuring that this is talked about in schools which may take the pressure off parents to have the conversations at home. It was felt that consistent

learning for all in this area would result in learners being more informed as they became adults and that it would help to create a better understanding and tolerance.

Implications for certain Faith and BAME communities such as Gypsy, Traveller and Roma parents removing their children from school were raised at the focus groups.

For RE, discussions were more straightforward, with learners having a clear understanding of what RE was about and what they currently learn in this area. It was clear that learners saw RE as including learning about all religions with a strong focus on Christianity throughout the responses given. Learning in RE also included learning about people, history and customs. It was felt that learning about religions and people helps to reduce racism and bullying. One respondent suggested that people with different religious beliefs, cultures and from countries outside of the UK should be invited to speak to learners as part of their education and that RE should include learning about non-religious beliefs.

For both RSE and RE, it was felt to support these changes, it was suggested that parents need to be kept informed of what is going on. This needs to be communicated in a variety of ways including email, text, letters, newsletters and face to face meetings. Information should be provided on what is being taught in RSE and RE and when. Teachers would need the right training and lessons should be customised to meet different needs and abilities. Involving learners and parents in discussions will also help the transition.

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 policy, consideration has been given to compatibility with the UNCRC.

All children have rights under 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 2 – the right to non-discrimination;
- Article 12 – the right to be heard, express opinions and be involved in decision making;
- Article 13 – Children have the right to get and share information as long as the information is not damaging to them or others.
- Article 17 – the right to access information that will allow children to make decisions about health;

- Article 24 – the right to experience the highest attainable health, access to health facilities, preventative health care and family planning education and services;
- 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, the RSE guidance and Ensuring access to the full curriculum consultations have made it clear that there are broader considerations of removing the right to withdraw on the right of a child in ensuring access to the full curriculum. On the supportive side, those respondents who supported the proposals to the consultation emphasised the importance of Articles 12, 13 and 28 in ensuring children are able to access all parts of the curriculum to achieve the four purposes. However there were a number of respondents, particularly those from faith groups had 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.”). These concerns were re-iterated by our work on community engagement activities with Faith and BAME communities.

In proceeding with the proposal, it is important to note that removal of the right to withdraw is not intended to replace parents’ vital role in educating their children and the importance of our guidance to 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.

There were concerns raised in the responses on the need for high quality RE and RSE provision. We are heavily investing in professional learning, with an enhanced £24m funding allocation to ensure all practitioners are prepared for the roll-out of a new curriculum in Wales. This funding can be used flexibly to allow schools to work together

in ways that suit their own circumstances and to create the time and space for practitioners and leaders to work across schools and networks to prepare for the new curriculum. We have also taken forward proposals to implement an additional INSET day from 2020, to provide additional whole-school time for engagement in professional learning. The additional INSET day and enhanced professional learning funding are integral elements of the National Approach to realise the new curriculum, supported by an additional £15m investment in 2020-21.

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 concluded that not having a right to withdraw is a better option.

There is a possibility that 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. A number of responses raised this risk as a possibility. Withdrawing the children from maintained school could have a potentially negative impact on those children in not receiving access to the full curriculum. In proceeding with our proposal, we will need to monitor changes in school registrations and home education.

The effect of the Human Rights Act 1998 and case law is that currently, in an education law context, RE also encompasses non-religious views. RE must be taught in an objective, critical and pluralistic manner; in particular, the state is not permitted to pursue an aim of indoctrination (“the Pluralism Requirement”). In this context, it is important to recall that the Pluralism Requirement does not just apply to the content of the curriculum (in particular, the requirement that it include teaching about non-religious convictions), it also applies to the way in which education and instruction is delivered: it must be delivered in a way that is objective, critical, and does not involve indoctrination or proselytising. This requirement applies to all of the education and instruction at a school and it is not limited to the new RE courses which are directly concerned with teaching about religion.

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.

Renaming RE

Our purpose in proposing a name change to RE was to ensure the name of this mandatory element of the curriculum reflected its proper scope accurately. It would provide clarity about our intentions, which is to broaden the focus of what is taught in RE while retaining appropriate focus on learning about religion. At the same time, our intention was to bring as many stakeholders with us in relation to any change, including the Church in Wales and Catholic Education Service who are responsible for maintained schools provision in Wales.

It is clear in proceeding with renaming RE to Religion, Values and Ethics from the Community engagement work undertaken by Re:Cognition that there would be negative impact to all the major Church groups felt the name should remain Religious Education for primary schools and become Religious Studies for secondary education which reflects the recognised higher education academic discipline. The name change which reflected a broader scope was not supported, including the responses from the Catholic Education Service and the Church in Wales. The Muslim Council of Wales and Cardiff University's Religious Studies faculty in the consultation also shared this view.

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.

Ensuring that learners receive RSE and RE 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 policy does 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)

Not including a right to withdraw from RE and RSE would apply for learners in school or funded non-maintained settings from 3 to 16 years old in the new curriculum. 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.

We have been clear that the learning provided in RSE must be age and 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 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 a 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, 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 supporting framework for RE 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 all schools (including Special 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. The responses to the consultation did not provide any further evidence in relation to the above impact.

We will 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 as work to develop the new curriculum progresses.

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. These criterion mean 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 and Coherence Group.

The AoLEs have been designed with the input of Special Schools to ensure they are applicable to all learners. An ALN sub-group has informed the development of the curriculum guidance and 'Routes for Learning' is being updated.

Gender Reassignment (the act of transitioning and Transgender people)

Proceeding 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. However, the consultation generated some transphobic responses, including ones where religious belief was cited in explaining those views. These views were expressed largely in response to the proposals for RSE, but we will need to test over time whether the provision of RE has any impacts on this group of learners.

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 and developmentally 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, Travellers, and Roma groups where these matters are also very sensitive and parents could withdraw their children in their entirety from maintained schooling or days or occasions on which such learning takes place. The consultation confirmed there were impacts for these groups.

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.

However, the Bill will include provisions that should mitigate the risk of teaching being provided as part of RSE and RE which is considered incompatible with the Convention Rights, in that, it does not satisfy the Pluralism Requirement.

In terms of RSE the Bill will make the following provision:

- provision that allows the Welsh Minister to publish a mandatory code setting out their requirements for RSE. This will apply to all maintained schools in Wales,
- the Code and Bill provisions will be supplemented by statutory guidance from the Welsh Ministers,
- the Bill will also include express provision that the RSE provided will be developmentally appropriate.

In terms of RE the Bill will make the following provision:

- the local authority, Standing Advisory Councils on Religious Education (SACREs) and Agreed Syllabus Conferences (ASCs) will be required to have regard to statutory guidance published by the Welsh Ministers;
- the constitution of SACRES and ASCs will be amended to allow person who represent beliefs and worldviews that are analogous to religions,
- the provision that requires the agreed syllabus should reflect the fact that the religious traditions in Great Britain are in the main Christian whilst taking account of the teaching and practices of the other principal religions represented in Great Britain will be amended so as to include reference to beliefs or worldviews analogous to religions,
- it is also proposed that the name “religious education” should be amended to reflect that scope of this subject include religious and non-religious views (such as humanism).

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 policy 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, makes it vital 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 to inform the guidance, professional learning and resources necessary to enable practitioners to teach the subject in a sensitive and developmentally appropriate way. Our actions through our community engagement programme including the Faith/BAME involvement group will help to mitigate these concerns. Our work to develop legislation will specify core learning to be covered so there is consistency in RSE provision and transparency for parents. Similarly, the supporting framework for Religious Education has been developed using a co-construction approach accompanied by a clear and proactive plan for ongoing communication with parents and wider communities and interests.

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. As part of our work to engage with the community, the evidence we have been able to gather and from the responses to the consultation, it will be a particular issue for people of Catholic faith 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 neutral 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/cultural 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 Christian groups.

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 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 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. A number of consultation responses alluded to a possible increase in 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:

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

⁴ Such schools could be established following a school organisation proposal

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.

Through our community engagement work during the consultation, we engaged with a representative from the Jehovah's Witness community. It was stated that one of their primary beliefs is to not break the law, so while unhappy, they would accept the decision. We do not have evidence of the views of the wider 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.

Our actions through our community engagement programme including the Faith/BAME involvement group will help to mitigate these concerns. Our work to develop legislation will specify core learning to be covered so there is consistency in RSE provision and transparency for parents. Similarly, the supporting framework for RE has been developed using a co-construction approach accompanied by a clear and proactive plan for ongoing communication with parents and wider communities and interests.

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 and safe relationships, safe sex, 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. For both boys and girls, this is a serious 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 (particularly women and girls) 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 age and developmentally appropriate way.

Our actions through our community engagement programme including the Faith/BAME involvement group will help to mitigate these concerns. Our work to develop legislation will specify core learning to be covered so there is consistency in RSE provision and transparency for parents. Similarly, the supporting framework for RE is has been developed using a co-construction approach accompanied by a clear and proactive plan for ongoing communication with parents and wider communities and interests.

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. The views expressed in the White Paper also came across during the consultation on Ensuring Access to the Full Curriculum that certain topics are of particular concern to many communities. 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 are protected in law and there should be no issue with learning which reflects that.

Within some faith communities, the consultation responses suggested that there is a belief that there is a conflict between religious rights and LGBTQI+ rights, with LGBTQI+ rights being seen as having a stronger standing in the eyes of government so religious rights are more likely to be ignored when the equality legislation comes into conflict with itself. It was noted that a number of faith representatives said they wanted a parity of rights and wanted to respect people but did not want to jeopardise or compromise their own identity. They believe that when equality legislation and principles conflict, there should be a negotiation and not an imposition. Ending the right of withdraw may strengthen this already existing belief with potential negative community cohesion consequences.

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.

Our actions through our community engagement programme including the Faith/BAME involvement group will help to mitigate these concerns. Our work to develop legislation will specify core learning to be covered so there is consistency in RSE provision and transparency for parents. Similarly, the supporting framework for RE has been developed using a co-construction approach accompanied by a clear and proactive plan for ongoing communication with parents and wider communities and interests.

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> <p>Many BAME communities are amongst the poorest in Wales.</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 Pluralism 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. As noted above in this context, it is important to recall that the Pluralism Requirement does not just apply to the content of the curriculum (in particular, the requirement that it include teaching about non-religious convictions), it also applies to the way in which education and instruction is delivered: it must be delivered in a way that is objective, critical, and does not involve indoctrination or proselytising. This requirement applies to all of the education and instruction at a school and it is not limited to the new RE courses which are directly concerned with teaching about religion.

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 in a manner that satisfies the Pluralism Requirement 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 Pluralism 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 local authority, SACREs and ASCs will be required to have regard to statutory guidance published by the Welsh Ministers;
- the constitution of SACREs and ASCs will be amended to allow persons who represent beliefs and worldviews that are analogous to religions,
- the provision that requires the agreed syllabus should reflect the fact that the religious traditions in Great Britain are in the main Christian whilst taking account of the teaching and practices of the other principal religions represented in Great

Britain will be amended so as to include reference to beliefs or worldviews analogous to religions.

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. However, the Bill will include provisions that should mitigate the risk of teaching being provided as part of RSE and RE which is considered incompatible with the Convention Rights, in that, it does not satisfy the Pluralism Requirement. In terms of RSE the Bill will make the following provision:

- provision that allows the Welsh Minister to publish a mandatory code setting out their requirements for RSE. This will apply to all maintained schools in Wales,
- the Code and Bill provisions will be supplemented by statutory guidance from the Welsh Ministers,
- the Bill will also include express provision that the RSE provided will be developmentally appropriate.

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 RE and RSE provided does not involve indoctrination and complies with the Pluralism Requirement;
- c) 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;
- d) schools of a religious character are able to teach RE and RSE in accordance with their trust deeds. If they do not have trust then they may teach those subjects in accordance with the tenets or denomination of their religion. However, the law requires that this must be done pluralistically. The Pluralism Requirement applies to both the content of the curriculum and to the way in which it is delivered. We consider that the parental rights in the second sentence of A2P1 will be appropriately respected if the RE and RSE provided complies with that Pluralism Requirement.

C. WELSH LANGUAGE IMPACT ASSESSMENT

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

Reference number:- 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:**

It was noted opting out from these lessons might have an impact on learners receiving a lower percentage of their education through the medium of Welsh. However it is likely that there is minimal impact to the language. One response highlighted the incorporation of any relevant Welsh culture, history and language relating to RE and RSE would have a positive effect on opportunities to use the Welsh language.

There is a separate issue of ensuring there are appropriate resources and professional learning in relation to RE and RSE in the medium of Welsh are available around the same time. However, this is being addressed through the wider development work on the new curriculum and will not be directly impacted by the policy to ensure that there is a positive effect of the opportunities to learn through the medium of Welsh.