

SEX AND RELATIONSHIPS EDUCATION**Decision sought****Cabinet is asked:**

- **To note the recommendations of the Sex and Relationships Expert Panel Report (at annex A) and agree the actions we are undertaking to improve health and well-being for young people in Wales;**
- **to agree in principle, subject to consultation, that all maintained schools provide Relationships and Sexuality Education to its compulsory school age learners (age 5-16).**

Introduction

1. High-quality sex and relationships education helps create safe school communities where pupils can grow, learn and develop positive healthy relationships for life.
2. There are ongoing issues, referenced below, regarding the quality and consistency in the delivery of Sex and Relationships Education (SRE) provision in our schools. These are set out in paragraph 11. In response, I established the Sex and Relationships Education Expert Panel which explored ways of improving how this area is taught. This paper seeks agreement in principle, subject to consultation, to take forward one of the panel's critical recommendations: that all maintained schools are required to provide Relationships and Sexuality Education to its compulsory school age learners (age 5-16). This agreement will enable us to include it as part of the consultation on the white paper for the new curriculum.
3. For the purposes of this paper, the subject area is named Sex and Relationships Education (SRE) when referring to current provision and Relationships and Sexuality Education (RSE) when referring to future provision and its statutory status within the new curriculum. This name change will be actioned through the updated guidance for the current curriculum, when it is issued later this year. It will be 'Relationships and Sexuality Education' which will be included as a statutory part of the new curriculum, if this proposal is agreed. This issue is elaborated upon at paragraph 25 of this paper.

The Issues



4. In *Prosperity for All*, we recognise improving mental health as one of the five priority areas that have the greatest potential to contribute to long-term prosperity and well-being. High quality SRE provision in schools contributes to this aim by supporting young people to develop the tools to cope with the rapidly changing world around them. It helps them to form a range of fulfilling relationships based on mutual trust and respect. It can also assist teachers to engage with often difficult social and emotional issues and identify those learners who may need further support.
5. *Prosperity for All* includes a specific action on how our new curriculum and assessment arrangements can support schools to place real and meaningful focus on well-being and develop the mental resilience of children and young people. *Education in Wales: Our National Mission* also outlines how we will improve aspects of education that contribute to learner health and well-being. Furthermore, they both emphasise the importance of supporting well-being from the earliest years; recognising the role that an individual's experiences in childhood can play in shaping their future, affecting their chances of going on to lead a healthy, prosperous and fulfilling life.

Current legislation and delivery of SRE

6. Legislation requires that all secondary school age pupils attending maintained settings should receive sex education (section 101(c) and (d) of the Education Act 2002). Primary schools are able to deliver sex education but this is at the discretion of their governing bodies. Sex education is defined in legislation as including, but not limited to, teaching the topics of Sexually Transmitted Diseases and HIV/AIDS (section 579 of the Education Act 1996). The school must have a written and published policy on the sex education it provides (section 404 of the Education Act 1996).
7. As well as this defined element, schools must deliver aspects of sex education where it falls under the national curriculum programmes of study; for example, puberty and reproduction in science. Schools must also provide Personal and Social Education (PSE) from the ages of 7-16 and the PSE Framework contains a health and emotional well-being theme. However, the PSE Framework is a non-statutory document and so for both sex education and PSE, schools are free to decide on the content and approach to delivery, based on the guidance documents and needs of their learners.

8. There is a right for parents to withdraw their children from sex education. There is no such right for pupils to withdraw themselves (section 405 of the Education Act 1996).
9. Relationships education is already present in the Foundation Phase, which covers 3-7 years old. The Foundation Phase contains a Personal and Social Development, Well-being and Cultural Diversity area of learning. Within this, children learn about themselves, their relationships with other children and adults both within and beyond the family. From KS2 (7 years old) onwards, schools are able to use the *Sex and Relationships Education in Schools guidance* and the health and emotional well-being theme of the PSE framework to support them in planning the relationships aspect of their provision. Both the SRE guidance and PSE framework are non-statutory.
10. The expert panel stated that the partial definition of sex education (which references such education including education on sexually transmitted diseases) under existing curriculum legislation tended to lead schools to adopt a narrow, biological focus within provision. In general, broader SRE topics are therefore not a priority; with a lack of time and resources and delivery by non specialist staff. This finding was also made by Estyn's thematic review of *Healthy Relationships Education* (July 2017) which also stated that schools did not allocate enough time or importance to SRE and that teachers lacked the confidence and knowledge to effectively respond to the needs of learners. These issues, however, are not unique to Wales. Both Scotland and England are reviewing their equivalent SRE provision. The proposal for statutory provision is therefore only part of a holistic approach to improving this area; with details of specific actions being outlined later in this paper.

Findings of the Sex and Relationships Education Expert Panel

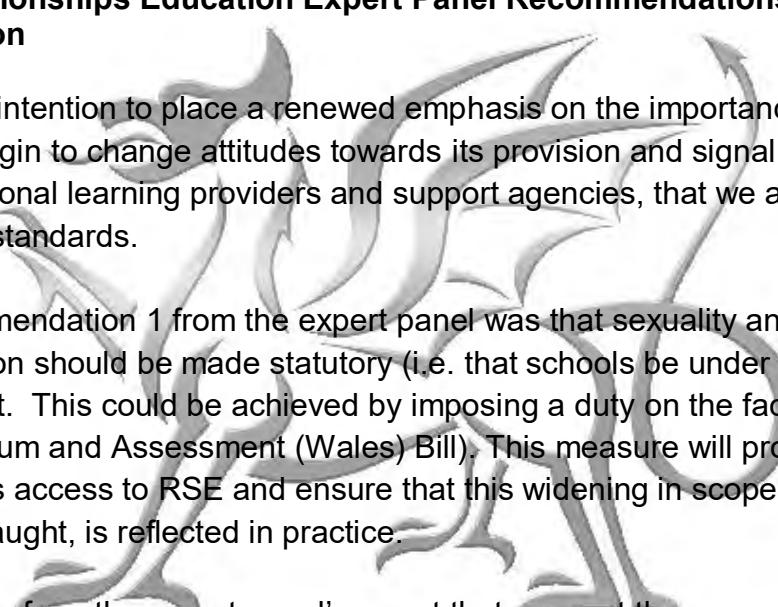
11. The expert panel published their report in December 2017. The group brought together a range of international research on best practice; demonstrating how high quality SRE can support young people to develop social, emotional and physical well-being. The key findings were:

- Children learn about relationships and wider social issues around gender and sexuality from the earliest ages. Effective, developmentally appropriate provision should therefore be delivered from the beginning of statutory education to engage with, and give learners a space to speak about, these experiences.
- Current legislation and guidance is outdated. Current statutory arrangements do not adequately acknowledge the wider social cultural

issues, such as gender, that fall under this area; nor does it deal sufficiently with priorities such as preventing domestic violence.

- Provision of SRE is too narrow, poorly resourced and lacks specialist teachers. It is often too biologically focused and is not responsive to the experiences of learners. It also does not take into account the need for inclusivity; for example for learners identifying as LGBT+ or disabled learners.

Sex and Relationships Education Expert Panel Recommendations – For Future Implementation



12. It is my intention to place a renewed emphasis on the importance of RSE. We must begin to change attitudes towards its provision and signal to schools, professional learning providers and support agencies, that we are serious about raising standards.
13. Recommendation 1 from the expert panel was that sexuality and relationships education should be made statutory (i.e. that schools be under a legal duty to deliver it. This could be achieved by imposing a duty on the face of the Curriculum and Assessment (Wales) Bill). This measure will protect our young people's access to RSE and ensure that this widening in scope, in terms of the topics taught, is reflected in practice.
14. It is clear from the expert panel's report that, even at the youngest ages, children are exposed to the complexities of relationships and sexuality. It is therefore of great importance that they have their needs identified and are given the space to express themselves; with further support being made available if required.
15. This recommendation also emphasises the importance of making developmentally appropriate provision available to pupils aged 3-16. Statutory schooling starts at 5, which means that statutory provision will also start at this age. I therefore propose to accept this recommendation in principle, so that all maintained schools provide RSE to its compulsory school age learners (age 5-16).
16. Provision in the early years of education must be developmentally appropriate and reflective of the best practice seen within the Personal and Social Development, Well-being and Cultural Diversity area of learning of the Foundation Phase. The main focus for our younger learners will be on building healthy relationships and staying safe.
17. By accepting this recommendation we will be able to place these provisions on the face of the Curriculum Bill. They will therefore go out to consultation as part

of the White Paper. We will look to develop policy around this recommendation as part of the curriculum reform process.

Sex and Relationships Education Expert Panel Recommendations – For Immediate Implementation

18. While it is important that we plan for the future curriculum, it is also crucial that we consider how we can start the process of improving provision for our current cohort of learners.
19. I therefore plan to accept the other recommendations of the expert panel in principle, so that we can begin to work towards developing an education system that guarantees access to high quality and consistent provision of RSE.
20. The expert panel and Estyn both recognised the need for teachers to access specialist professional learning opportunities. This is a key element of delivering high quality RSE, with practitioners who are, through training and support, knowledgeable, confident and able to be responsive to the experiences and needs of their learners. Through this we will also be improving support for our workforce to deal with sensitive issues, such as the prevention of violence against women and domestic abuse.
21. As well as raising standards of provision within the existing curriculum, greater access to specialist professional learning will contribute to getting practitioners ready for the new curriculum. I have already taken steps to support the implementation of this recommendation. From this year's budget, I am making available an additional £250,000 to support schools. On top of existing funding for professional learning, I have provided a further £200,000 to consortia to support the up-skilling of teachers and I have also provided £50,000 towards the development of new resources.
22. My officials have started early discussions on improving initial teacher education and professional learning. These will continue to ensure that we put in place a robust, joined up and fit for purpose pathway that can effectively support and improve provision in schools.
23. I will be making an oral statement in the coming weeks, accepting in principle all of the recommendations put forward by the expert panel.
24. The expert panel also recognised that current guidance, *Sex and Relationships Education in Schools (2010)*, while comprehensive, is outdated. Therefore, in addition to accepting the panel's recommendations in principle, I have asked officials to update this guidance to ensure that it meets the high standards outlined in the expert panel report. We need guidance that supports schools to

engage confidently with a range of issues that are relevant to modern learners, e.g. consent, gender equity and equality and LGBT+ identities and same sex marriage.

25. Part of Recommendation 1 from the expert panel is that sex education should be re-named Sexuality and Relationships Education. The purpose is to draw on the World Health Organisation's definition of sexuality with an emphasis on rights, health, equality and equity. I am supportive of this as it encourages schools to consider, when planning their provision, the wider social, cultural and technological issues that can affect our ability to form healthy relationships and maintain good mental health. However, while in favour of a change in name, I am proposing to use the name "Relationships and Sexuality Education", signalling the importance of healthy relationships and better reflecting the teaching chronology of the subject. This change will be taken forward as part of the update to current guidance.
26. Recommendation 10 of the expert panel proposes that an excellence mark should be created for schools to recognise exemplary whole school approaches in this area including gender equality and equity. My officials have worked in partnership with their counterparts in the Health Department who are responsible for policy regarding the Welsh Network of Healthy School Schemes (WNHSS). The WNHSS national quality award indicators include a category on personal development and relationships. Within this there is a criterion that schools must have a policy in place that follows national and local guidance. Through updating current guidance to focus on issues such as gender equity and equality, it will embed these topics into policy and learning for those schools working towards achieving a quality award.
27. Schools will continue to be supported to deliver aspects of RSE through the Digital Competence Framework (DCF), which I introduced in 2016. This is the first element of the new curriculum to be made available to schools. The DCF contains a citizenship strand which allows schools to engage with topics such as health and well-being and online bullying.

Impact on Curriculum Reform

28. In *Successful Futures*, Professor Donaldson recommended that Welsh and RE remain statutory elements within the curriculum. If this proposal to Cabinet regarding RSE is agreed, it will also be a statutory part of the curriculum. Like RE, this area of study is in a fragile position within the current curriculum and I am concerned that without statutory status it may not be possible to achieve the improvements we want to see.

29. My officials, in partnership with key stakeholders, will now develop the following areas:

- whether the existing duty to provide sex education to secondary school age pupils will remain and will be run alongside RSE or whether it will be removed and replaced entirely by RSE;
- whether and how the existing right for a parent to withdraw their child from sex education should be amended. This will include considering developments in other UK nations; for example, the consultation being carried out in England proposes that the right to withdraw should be retained for sex education but not apply to relationships education;
- whether and how the Welsh Ministers' power to issue guidance should be amended; and
- Pioneer schools will also work on how RSE provision is embedded within the new curriculum.

30. The commitment to make RSE a statutory provision will support one of the four purposes of the new curriculum, ensuring that learners become healthy, confident individuals who form positive relationships based upon trust and mutual respect, and the Health and Well-being Area of Learning and Experience. Also the move to Relationships and Sexuality Education aligns the subject area more closely with the overall objective of the new curriculum. It encourages critical thinking, builds resilience and facilitates connections across the curriculum; e.g. the social historical aspects of gender (linking to expert panel recommendations 2 and 3).

Risks

31. Giving RSE a specific statutory status as part of the new curriculum has potential risks. Sex and relationships are mentioned in *Successful Futures*, but only as an element of the Health and Well-being AoLE. The report does not recommend that sex and relationships should be given a specific statutory status within the new arrangements. Special interest groups representing topics not explicitly dealt with in *Successful Futures* (e.g. first aid, financial inclusion) may see this as a signal that the new curriculum is open to further additions or amendments; opening up the potential for lobbying. The argument for resisting further requests for changes to the curriculum, by a range of stakeholders on other matters may be compromised. It may make any legislation laid for the new curriculum vulnerable to being challenged by these interest groups, potentially delaying implementation.

32. Equally, there is the risk that by not including SRE, which is currently statutory, in the White Paper, it will be challenged by stakeholders who advocate for issues such as sexual health, violence against women and LGBT issues; many of whom were members of the SRE expert panel.
33. If Cabinet agree to the principle that statutory RSE provision (Recommendation 1) is to be taken forward, it will go out for consultation as part of the process of developing the new curriculum.
34. Subject to First Minister and Cabinet approval, it is currently proposed that the Curriculum and Assessment Bill will be in Year 4 of the Legislative Programme. The timetable for the Bill is that all policy instructions are provided to Legal Services by July 2018. It's also proposed that a White Paper setting out the detailed proposals for the new curriculum (and assessment arrangements) will be published in November 2018. Policy officials advise they are confident that the policy instructions for RSE will be completed by July 2018, in accordance with the current draft legislative timetable.

Impact on wider policy

35. Both the expert panel report and the Estyn thematic review on Healthy Relationships Education identified a lack of specialist training as a barrier to schools including topics such as violence against women, domestic abuse and sexual violence (VAWDASV) within their provision.
36. Access to high quality RSE will support learners to maintain good emotional and mental health; contributing to improving their educational and wider life outcomes.

Impact on legislation

37. As noted earlier, section 101(1)(c) and (ca) of the Education Act 2002 requires that all maintained secondary settings provide secondary school age pupils with sex education. Schools are free to decide on the content and approach used to deliver sex education, based on the needs of their learners. The school must have a written and published policy on the sex education it provides (section 403 of the Education Act 1996 ("the 1996 Act")). Where sex education is provided, it must be given in such a manner as to encourage those pupils to have due regard to moral considerations and the value of family life (section 403(1) of the 1996 Act).
38. Primary schools have the discretion to deliver Sex Education, but there is no legislative obligation for them to do so. If the age range for statutory provision of

RSE begins at 5 years old, we will be creating a duty for primary schools which they do not currently have under existing curriculum arrangements.

39. In practice, the term sex and relationships education is far more commonly used by schools than Sex Education. This reflects the range of learning and support that they provide regarding the emotional, physical and social aspects of relationships, sexual health and well-being. This reflects the terminology used by schools and acknowledges how the subject has evolved over time.
40. Further, the Welsh Ministers must issue guidance, which governing bodies and Head Teachers must have regard to, designed to ensure that when sex education is given to registered pupils at maintained schools—
 - a. they learn the nature of marriage and its importance for family life and the bringing up of children (the reference to marriage would also now include same sex marriage), and
 - b. they are protected from teaching and materials which are inappropriate having regard to the age and the religious and cultural background of the pupils concerned (section 403(1A) of the 1996 Act)
41. Primary schools are able to deliver sex education, but this is done at the discretion of their governing bodies. Currently, there is also a statutory right for parents alone to withdraw their children from sex education except from the statutory elements which form part of the National Curriculum e.g. science (section 405 of the 1996 Act).
42. Case law has established that it can be proportionate to insist on mandatory sex education lessons even though this might lead to teaching that was not in conformity with the religious convictions of the parents¹. Legal Services consider that the principle of compulsory teaching of RSE appropriate to a child's age and maturity is compatible with the human rights protected by the Human Rights Act 1998 ("Convention Rights"). Legal Services will work with policy colleagues to ensure that the content is compatible with the Convention Rights.
43. Further legal work will need to be undertaken as to whether the parental right to withdraw is still compatible with the Convention Rights. Legal Services have not formed a final view but tend to the view that if a right of exemption is to remain it should be exercisable by children with sufficient maturity, understanding and intelligence to determine the issue for themselves. Until a child was able to determine the issue for themselves it should be exercisable by the parent. Similar issues are raised in respect of the right to withdraw from religious

¹ Dojan and others v Germany (application No 319/08, 2455/08, 7908/10, 8152/10 and 8155/10).

education and collective worship. Legal Services will work with policy colleagues to consider these issues in depth as this policy develops. Legal Services will also need to further consider whether there are any legal implications regarding the focus on the importance of marriage (as opposed to say long-term, stable relationships outside marriage) for family life and the bringing up of children.

Finance Requirements and Governance Implications

44. Cabinet is being asked to agree the principle that a statutory provision for Sex and Relationships Education is included for further consultation as part of the curriculum White Paper. This advice does not commit to any specific actions in terms of policy regarding sex and relationships education and so does not commit Welsh Government to providing funding. It is likely that, if this is agreed following consultation, the development of policy regarding the statutory provision for Relationships and Sexuality Education, will be considered as part of the overall curriculum reform process. Costs for the development of profession learning for RSE will be included in the overall professional learning package for the new curriculum and so it is not expected to incur costs in addition to this.
45. £250,000 has been made available from the education MEG in 2017/18 to support consortia to develop professional learning opportunities and resources to support SRE (MA-P/KW/0693 refers).
46. As there are no issues of regularity or propriety, this advice does not need prior approval by the Corporate Government Unit (CGU).
47. In accordance with FN/ 01/15, the advice has been copied to the CGU &FP Mailboxes for monitoring purposes.
48. Any associated administration costs can be met from within the EPS Delegated Running Cost budget.
49. The EPS Operations Team is content this MA complies with Interim Finance Notice 01/2015 (EPS/KW/19/18).
50. Strategic Budgeting have cleared this advice (SB/0391/5).

Research and / or Statistics

51. No statistics are included in this paper.

Communications and publication

52. An oral statement in response to the expert panel's recommendations will be made in the coming weeks.

Recommendation:

That Cabinet note the recommendations of the Sex and Relationships Expert Panel Report (at annex A) and agree the actions we are undertaking to improve health and well-being for young people in Wales.

That Cabinet agree, subject to consultation, that all maintained schools provide Relationships and Sexuality Education to its compulsory school age learners (age 5-16).

Joined up Working

53. It is recognised that exposure to Adverse Childhood Experiences (ACEs) can have a negative impact on learners' wellbeing, educational achievement and life outcomes. It is important, therefore, for schools to become ACE informed and to look at the curriculum and the support they provide to pupils through the ACE lens. In *Education in Wales: Our National Mission*, I committed to making professional learning opportunities for teachers to become ACE aware a priority; with the aim of reducing the risk that childhood challenges escalate into long term difficulties in adult life.

The development of professional learning regarding RSE will support this priority. Professional learning is key to enhancing teacher's confidence, knowledge and understanding of how to better respond to learners' experiences and facilitate a whole school approach to supporting wellbeing; including how they can work more closely with support structures outside the school. This will contribute to creating a workforce that can better identify those learners experiencing ACEs, know how to positively support them and how to access further assistance.

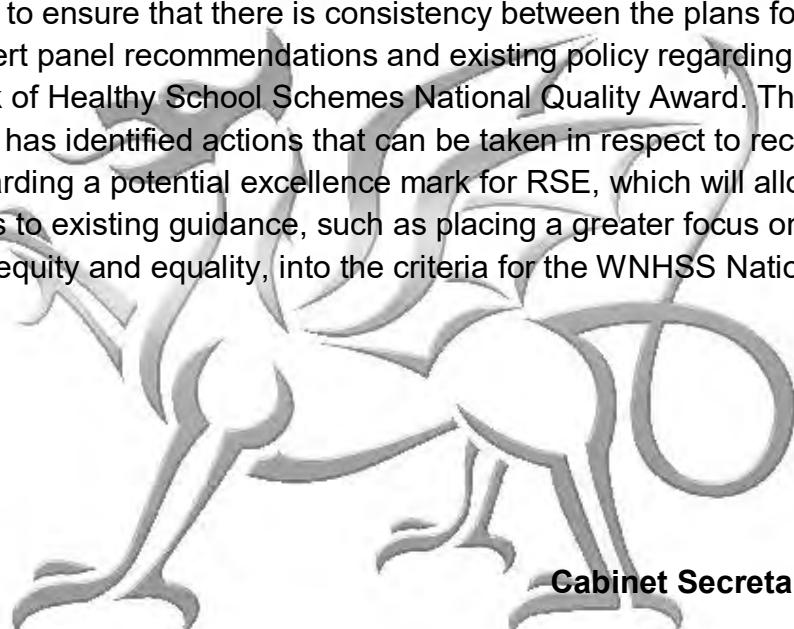
My officials responsible for the Health and Well-being AoLE are working with their colleagues from the Support for Learners Division, other Government departments and the ACE Support Hub to support school communities to become ACE informed in their work.

54. Statutory provision for RSE, in combination with improvements in professional learning opportunities, will equip our workforce to better engage with the experiences and needs of their learners. By improving teachers' confidence and

knowledge regarding sensitive topics that often fall within this area; we hope to encourage them to engage with issues such as the prevention of domestic violence.

Professional learning regarding violence against women, domestic abuse and sexual violence is already available to a range of organisations in Wales and the sector has a wealth of expertise and experience that can help inform future RSE in schools.

55. Officials in Education have engaged with their colleagues in the Public Health Division to ensure that there is consistency between the plans for taking forward the expert panel recommendations and existing policy regarding the Welsh Network of Healthy School Schemes National Quality Award. This partnership working has identified actions that can be taken in respect to recommendation 10, regarding a potential excellence mark for RSE, which will allow us to embed changes to existing guidance, such as placing a greater focus on topics such as gender equity and equality, into the criteria for the WNHSS National Quality Award.



Kirsty Williams
Cabinet Secretary for Education
March 2018

Drafted by Steven Price, Curriculum and Assessment Division
Approved by

Annex A

Summary of recommendations from the Sex and Relationships Expert Panel

Key Area 1: Definition, status and guidance

Recommendation 1: Sex and Relationships Education (SRE) should incorporate a name change from Sex and Relationships Education to Sexuality and Relationships Education. This new definition will draw upon the World Health Organisation's (WHO) definition of 'sexuality', with an emphasis on rights, health, equality and equity. To make the Sexuality and Relationships Education (SRE) a statutory part of the new curriculum for all schools (age 3-16) and underpinned by the core principles in recommendation 2.

To develop new statutory guidance for Foundation Phase, Primary and Secondary Schools underpinned by the core principles in recommendation 2.

Key Area 2: Curriculum Content, Pedagogy and Assessment

Recommendation 2: The SRE Curriculum should be guided by the following core principles and thematic areas with clear learning outcomes that can evolve to meet changing biological, social, cultural and technological issues and knowledge.

Core principles include: Rights and Gender Equity; Creative and Curious; Empowering and Transformative; Experience-near and Coproduced; Holistic; Inclusive; Protective and Preventative

Recommendation 3: The SRE Curriculum should be engaging, relevant and developmentally appropriate with clear progression pathways for learning and experience.

Recommendation 4: Pioneer schools, supported by Welsh Government and specialist organisations should explore how the SRE element of the Health and Well-being AoLE can be embedded in a 'whole school approach'.

Recommendation 5: The Health and Well-being AoLE should have an equal status to other AoLEs. SRE should also have equal status to other areas within Health and Well-being and the wider AoLEs, including robust assessment arrangements that support pupil voice.

Key Area 3: Training and Standards

Recommendation 6: Welsh Government to establish a SRE professional development pathway, differentiated for stage of education, to be incorporated into ITE and professional learning courses.

This pathway would provide an opportunity to further progress their professional development and specialise in SRE, allowing scope for the workforce to achieve a Masters level SRE qualification.

Recommendation 7: All schools should have a specialist trained SRE lead with access to resources and guidance to co-ordinate a rights and gender-equity based curriculum. Hours for delivery across the key stages should be equitable with other curriculum subjects. This role should involve embedding SRE in a whole school approach.

Recommendation 8: Each Local Authority, working with Consortia, should have a dedicated SRE lead to provide external support, co-ordinate CPD and ensure consistency and quality recognising that specialist external organisations of educationally trained providers, including FE and HE sector, can enhance SRE curriculum content and its implementation in a whole school approach.

Recommendation 9: For Estyn to build on recent changes to the inspection framework to consider the inspection of SRE as part of aligning new inspection arrangements to the new curriculum.

Recommendation 10: Welsh Government to consider establishing a SRE excellence mark to highlight exemplary whole school approaches to gender equality and equity and SRE.

Key Area 4: Research and Support

Recommendation 11: Welsh Government to establish a SRE Hwb Zone to support high quality SRE in school and to service a SRE research, practice and training network, aimed at facilitating provision of up to date research and training opportunities and creation of a Wales SRE community of practice.