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Department of Education
Curriculum Team

Issued via email to rseresponses@education-ni.gov.uk

Department of Education Consultation (RSE) on the circumstances which would enable a parent/carer to excuse their child from receiving age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights.

1 Executive Summary

- 1.1 We welcome the opportunity to respond to the Department of Education's Consultation.
- 1.2 Recognising the value of RSE in terms of both education and in addressing wider societal issues and inequalities, any scope for a parent / carer to withdraw their child from lessons on sexual and reproductive health and rights should ensure the best interests of the child.
- 1.3 Any opt-out provisions should take full account of the principles and best practice enshrined in relevant international human rights standards, including the United Nations Convention on the Rights of the Child which includes a focus on the best interest of the child, the right to education, the rights to have views considered, and for parents to provide appropriate direction and guidance in a manner that is consistent with the evolving capacities of the child.
- 1.4 DE should outline not only their Guidance on any circumstances and arrangements for withdrawal, but also how the limited scope for any opt-out will work in practice. The implementation of any opt-out provisions should be such that they do not result in children missing any wider areas of the RSE curriculum, for example regarding relationship education.
- 1.5 It is important also that any provisions for opt-out consider the potential impacts on the child of the withdrawal from some lessons, or parts thereof. Clarity is also needed as to how such provisions will apply where pupils and their parents have differing views, or where individual parents /carers disagree on opting-out their child.

- 1.6 The Commission has consistently emphasised the importance of the access to information and the benefit of collaborative approaches. Ensuring information is available, and in appropriate formats, is an important element of effective engagement and involvement.
- 1.7 We emphasise the importance of collecting data and monitoring the equality characteristics of any instances of children being withdrawn from classes. Such considerations should be used to inform the fulfilment of the Section 75 Duties on Public Authorities to monitor the actual impacts of the policy across the Section 75 equality categories.
- 1.8 More broadly, the Commission emphasises the need to ensure that teaching is accessible to, and inclusive of, pupils across the equality groups. The Curriculum should include a focus on challenging stereotypes, tackling prejudice-based bullying, and encourage a greater understanding of and respect for pupils covered by the Section 75 grounds. We also reinforce the importance of supporting teachers via teacher training and continuous professional development.

Section 75

- 1.9 **Policy Scoping:** The current consultation and Section 75 screening is limited to the development of Regulations on the rights of parents to request their children to be excused. It is important that the Department ensures that Section 75 is also applied at an early stage in policy development to any guidance produced by the Department for schools, on parent's rights to excuse children for this aspect of the curriculum and to any guidance produced by CCEA on behalf of the Department on teaching and learning materials.
- 1.10 **Section 75 Data Evidence:** The Department sets out broad population level data. The Department should source and utilise data disaggregated by Section 75 categories that is relevant to the policy proposals to enable coherent assessment of impacts.
- 1.11 **Equality Impacts/ Screening decision:** The Department concludes that there are 'minor' equality impacts and has screened the policy out. This assessment is not clear given that the qualitative evidence outlined in the Department's screening indicates that '*Religion may play a **significant part in decisions about whether parents/carers apply to have their children excused from specific lessons.***' This would indicate a potential major impact on children whose parents choose to opt them out because of their religious belief. A more detailed Equality Impact Assessment (EQIA) might therefore have reasonably been expected.
- 1.12 **Mitigation/ Alternative Policies:** There is no mitigation or alternative policies considered. The Department is required to consider mitigation and/or alternative policies which might address the equality impacts identified.

- 1.13 **Consultation:** The Department requested that consultees ‘agree/disagree’ with its policy proposals. The Department should take care in its consideration of the consultation responses that issues are not summarised by the numbers of responses i.e. policy development is not based on the numbers of consultees agreeing/disagreeing in terms of policy options.
- 1.14 **Section 75 Monitoring arrangements:** There are no Section 75 specific monitoring arrangements. The Department must set out how it will monitor the actual impacts of this policy once it has been implemented.
- 1.15 **Action Required by the Department:** The Department should amend and re-consider the equality assessment of this policy in light of this Section 75 advice.

2 Relationships and Sexuality Education

- 2.1 The UN Educational, Scientific and Cultural Organisation (UNESCO) describes comprehensive RSE as “*a curriculum-based process of teaching and learning about the cognitive, emotional, physical and social aspects of sexuality. It aims to equip children and young people with knowledge, skills, attitudes and values that will empower them to: realize 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*”¹.

Background to the current Departmental consultation

- 2.2 The Committee on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) highlighted in 2018, through its inquiry procedure, that the provision of age-appropriate, culturally sensitive, comprehensive and scientifically accurate sexuality education and information is critical to the realisation of women’s right to health. It found that the State’s ‘*lack of oversight of delivery by schools of the curriculum on relationship and sexuality education, to ensure that it is evidence-based and includes contraceptive use, safe abortion and post-abortion care*’, violated the Convention².
- 2.3 On 5 June 2023, the Secretary of State for Northern Ireland brought forward Regulations under his powers in Section 9 of the Northern Ireland (Executive Formation etc) Act 2019, the Relationships and Sexuality Education (Northern Ireland) (Amendment) Regulations 2023. These

¹ UNESCO cited in NIHRC [Relationships and Sexuality Education in Post Primary Schools in Northern Ireland](#)

² CEDAW (2018) [Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to CEDAW](#), CEDAW/C/OP.8?GBR/1, para 75-6.

regulations sought to give effect to elements of the recommendations in paragraphs 85 and 86 of the 2018 report³ of the UN Committee on the Ending of Discrimination Against Women (CEDAW).

2.4 These Regulations included the revision to the Education (Northern Ireland) Order 2006, to include that:

“The curriculum for every grant-aided school shall, in relation to key stages 3 and 4, include age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion”.

2.5 The Regulations place duties on the Department of Education:

- Specifically, they provide that the **Department must, by 1 January 2024, issue guidance** on the content and delivery of the education required, to be compliant with the CEDAW recommendations. The guidance must be issued with a view to ensuring that pupils receive education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion; and that the education received by pupils is age-appropriate, comprehensive and scientifically accurate. The Department states it has asked CCEA to develop teaching and learning resources.
- *The Department “must by **regulations make provision about the circumstances in which, at the request of a parent, a pupil may be excused** from receiving the education required to be provided by virtue of Article 5(1A), or specified elements of that education.”*

2.6 The Department indicates in the consultation booklet that it will be developing guidance for schools in relation to the implementation of these Regulations by 1st January 2024.

3 Parental withdrawal of children from education on sexual and reproductive health and rights.

3.1 We welcome the opportunity to respond to the Department of Education’s Consultation on Relationships and Sexuality Education (RSE) regarding the circumstances and arrangements which would enable a parent/carer to excuse their child from receiving age-appropriate, comprehensive and

³ CEDAW (2018) [Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women: Report of the Committee](#)

scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion⁴.

- 3.2 Recognising the value of RSE in terms of both education and in addressing wider societal issues and inequalities, the Commission reiterates the importance of access to age-appropriate, comprehensive and scientifically accurate education. Any scope for a parent / carer to withdraw their child from lessons on sexual and reproductive health and rights, including those covering prevention of early pregnancy and access to abortion should ensure the best interests of the child.
- 3.3 We reinforce the value and importance of access to education, and of maximising attendance at school, and participation in class while there, noting the value of education in shaping an individual's life changes and in addressing wider societal issues and inequalities. The implementation of any opt-out provisions from education on the prevention of early pregnancy or access to abortion should be such that they do not result in children missing any wider areas of the RSE curriculum, for example relationship education.

Access to Education

- 3.4 Education plays a key role, beyond the achievement of qualifications, in shaping an individual's life changes and in addressing wider societal issues and inequalities. It can provide exposure to literature, language, sport, activities, art, and music; as well as allowing individuals to develop an understanding and experience of the value and range of diverse cultures, identities and backgrounds.
- 3.5 We also reiterate the important role that all stages of education can play in countering stereotypes and prejudicial attitudes from an early age and across all areas of life. This is important as, for example, gender-based stereotyping can begin in childhood and continue throughout life stages^{5 6}.
- 3.6 The CEDAW Committee observed in its 2018 Inquiry that *'young people in Northern Ireland were denied the education necessary to enjoy their sexual and reproductive health and rights'*⁷.
- 3.7 It is important that any provisions for opt-out (and related guidance) consider and seek to mitigate the potential impacts of the withdrawal of a child from some lessons, or parts thereof.

⁴ DE (2023) [Relationships and Sexuality Education \(RSE\) Consultation](#)

⁵ NI Executive (2013) [Together: Building a United Community Strategy](#) which notes: "We recognise that the early years in a child's life are the most formative and it is at this early stage that children can establish opinions, mindsets and attitudes that shape their behaviours for the rest of their lives"

⁶ ECNI (2022) [Equality in Education: Policy Position Paper, para 6.53](#)

⁷ CEDAW (2018) [Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to CEDAW](#), CEDAW/C/OP.8?GBR/1, para 43.

- 3.8 For example, CCEA Guidance on RSE (in relation to primary education) issued in 2019 that highlights that while parents may withdraw children:

“they must discuss the potentially detrimental effect that this can have on the child with the school.

They should consider the social and emotional effects of being excluded, as well as the likelihood that the child will hear their peers’ version of what happened or what was said in the classes, rather than the safe and reliable source of the teacher”⁸.

- 3.9 DE should also outline in Guidance how any circumstances and arrangements for withdrawal, including how the limited scope for any opt-out will work in practice e.g. in situations where a particular lesson may cover multiple issues, some of which the parent / carer may be content that the child is taught and/or some which may not be covered by any opt-out provisions. The implementation of any opt-out provisions should be such that they do not result in children missing any wider areas of the RSE curriculum, for example regarding relationship education.

Access to Rights

- 3.10 While noting the decision by the Secretary of State to provide that “...parents should have the opportunity to excuse their child/children from receiving the education required, or specified elements of that education...”⁹, we also note that the Committee on the UN Convention on the Rights of the Child (UNCRC), in its 2023 Concluding Observations on the UK¹⁰, recommended that “*comprehensive, age-appropriate and evidence-based education on sexual and reproductive health [be integrated] into mandatory school curricula at all levels of education and into teacher training and ensure that it includes education on sexual diversity, sexual and reproductive health rights, responsible sexual behaviour and violence prevention, without the possibility for faith-based schools or parents to opt out of such education*”.

- 3.11 Any opt-out provisions should take full account of the principles and best practice enshrined in relevant international human rights standards, including the United Nations Convention on the Rights of the Child which includes a focus on the best interest of the child, the right to education, the rights to have views considered, and for parents to provide

⁸ CCEA (2019) [RSE Guidance: An Update for Primary Schools, p. 9.](#)

⁹ [Explanatory Memorandum to the Relationships and Sexuality Education \(Northern Ireland\) \(Amendment\) Regulations 2023](#) para 7.10.

¹⁰ UN Committee on the Rights of the Child (2023) [Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland](#), CRC/C/GBR/CO/6-7, para 44(b). “Integrate comprehensive, age-appropriate and evidence-based education on sexual and reproductive health into mandatory school curricula at all levels of education and into teacher training and ensure that it includes education on sexual diversity, sexual and reproductive health rights, responsible sexual behaviour and violence prevention, without the possibility for faith-based schools or parents to opt out of such education”.

appropriate direction and guidance in a manner that is consistent with the evolving capacities of the child.

- 3.12 Consideration also needs to be given to how any opt-outs would work in practice. Any provision for parental opt-out of their child from elements of the RSE curriculum should consider the impact on the child, and not be at the expense of the system of education as a whole working to maximise equality of opportunity.
- 3.13 Article 3 of the United Nations CRC¹¹ provides that *“The best interests of the child must be a top priority in all decisions and actions that affect children”*. Article 28 provides for the Right to Education, and Article 12 provides that *“Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously”* in line with their evolving capacity.
- 3.14 Article 23 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) recognises the rights of persons with disabilities *“to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided”*¹².
- 3.15 Clarity is also needed as to how such provisions will apply where pupils and their parents have differing views, or where individual parents /carers disagree on opting-out their child.
- 3.16 Article 5¹³ of the UNCRC provides that State Parties: *“shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention”*.
- 3.17 In the context of ensuring that the views of children are given due weight in accordance with their age and maturity¹⁴, we note that in England opt-

¹¹ [The United Nations Convention on the Rights of the Child \(UNCRC\)](#)

¹² [Convention on the Rights of Persons with Disabilities](#), adopted Dec. 13, 2006, art, 23, G.A. Res. A/RES/61/106, U.N. GAOR, 61st Sess., U.N. Doc. A/61/611, (entered into force May, 3 2008).

¹³ We note the UNRCR clarifying statement on Article 5, published in October 2023, that sets out that *“Any interpretation that singles out one of the elements of Article 5 while ignoring or discarding the other elements – for example, highlighting the rights of parents without also mentioning ‘appropriate direction and guidance’, ‘in the exercise of the rights recognized in the current Convention’ would be contrary to an accurate and holistic understanding of the article”*. The Statement further clarifies that *“parents’ responsibilities, rights and duties to guide their children is not absolute but, rather, delimited by children’s status as rights holders”*. Statement from of the Committee on the Rights of the Child on Article 5 of the Convention on the Rights of the Child, published 11 October 2023 [Article 5 \(ohchr.org\)](#)

¹⁴ Article 12 of the UNCRC: ‘States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child’. [The United Nations Convention on the Rights of the Child \(UNCRC\)](#)

out provisions are limited - in that while parents can opt pupils out of classes up until three terms before child turns 16 years old¹⁵,

“At this point, if the child themselves wishes to receive sex education rather than be withdrawn, the school should make arrangements for this to happen in one of the three terms before the child turns 16 - the legal age of sexual consent”.

- 3.18 Further, the 2023 Statement of the Committee on the Rights of the Child on Article 5 of the UNCRC sets out that *“parents’ responsibilities, rights and duties to guide their children is not absolute but, rather, delimited by children’s status as rights holders”*¹⁶.

4 Access to Information

- 4.1 The consultation also considers if parents / carers should be informed about the specific nature and content of the age-appropriate, comprehensive and scientifically accurate education; and if pupils and parents / carers should have access to an overview of their school’s RSE policy and planned RSE programme.
- 4.2 The Commission has consistently emphasised the importance of the access to information and the benefit of collaborative approaches within children’s education involving engagement with pupils, parents, carers, families, and the wider communities of equality groups¹⁷.
- 4.3 We note the 2013 DE circular on RSE policy stating that *“The Department requires each school to have in place its own written policy on how it will address the delivery of RSE. A school’s RSE policy should be subject to consultation with parents and endorsed by a school’s Board of Governors”*¹⁸.
- 4.4 Further, and as highlighted above, in any opt-out or related guidance it is important to ensure adherence to the principles enshrined in the United Nations Convention on the Rights of the Child, including that children have the right to have their voices heard in all matters concerning them¹⁹.

¹⁵ For further details, see: [Relationships education, relationships and sex education \(RSE\) and health education: FAQs - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/relationships-education-relationships-and-sex-education-rse-and-health-education-faqs)

¹⁶ Statement from of the Committee on the Rights of the Child on Article 5 of the Convention on the Rights of the Child, published 11 October 2023 Article 5 (ohchr.org).

¹⁷ See examples at <http://www.equalityni.org/Education/Policy> and <http://www.equalityni.org/Education/Covid19>

¹⁸ DE (2013) DE Circular on RSE <https://www.education-ni.gov.uk/publications/circular-201316-relationships-and-sexuality-education-policy>

¹⁹ For further details, see UN convention on the Rights of the Child. Article 12 (1) States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

- 4.5 Ensuring information is available, and in appropriate formats, is an important element of effective engagement and involvement.

5 The importance of equality data for tracking impacts and targeting interventions.

- 5.1 The Commission has longstanding positions regarding the importance of collecting equality data and monitoring outcomes across the equality groups²⁰.
- 5.2 We note that the Explanatory Memorandum²¹ to the Regulations highlights that *'The collection of data, such as equality data will be an important factor during the process of implementation'*.
- 5.3 We emphasise the importance of collecting data and monitoring the equality characteristics of any instances of children being withdrawn from classes providing age-appropriate and scientifically accurate education on sexual and reproductive health and rights covering prevention of early pregnancy and access to abortion.
- 5.4 Such data should be disaggregated across the equality grounds and used to assist in identifying any related patterns or trends across different equality groups and taking targeted action to ensure the effectiveness of RSE going forward.
- 5.5 Such considerations should be used to inform the fulfilment of the Duties²² on Public Authorities under Section 75 of the Northern Ireland Act (1998) to monitor the actual impacts of the policy if implemented across the Section 75 equality categories. Where there are gaps in data, specific Section 75 monitoring arrangements should be put in place to address these gaps.

Wider equality considerations

Accessibility

- 5.6 In terms of the delivery of the RSE curriculum, schools should ensure that teaching, including information on sexual and reproductive health, is accessible to, and inclusive of, pupils across the equality groups. For example, information should be in formats accessible to disabled pupils,

²⁰ For further details on the Commission's wider recommendations regarding Equality Data, please see: <https://www.equalityni.org/EqualityData>

²¹ [Explanatory Memorandum to the Relationships and Sexuality Education \(Northern Ireland\) \(Amendment\) Regulations 2023](#) No. 602, para 12.3.

²² See www.equalityni.org/S75duties and ECNI (2020) [Section 75: Using Evidence in Policy Making - A Signposting Guide](#)

and information should be accessible to pupils from different minority ethnic backgrounds, who may experience language barriers.

Promoting Positive Attitudes and Challenging Stereotypes and Bullying

- 5.7 Under NIEFA 2019 the NI Secretary of State is also under a duty to implement the CEDAW Inquiry Report recommendation to: *‘Adopt a strategy to combat gender-based stereotypes regarding women’s primary role as mothers’*. How the RSE curriculum may contribute to the delivery of this duty should be considered.
- 5.8 The Commission is on record as highlighting the importance of embedding equality, including gender equality, in the content and delivery of the curriculum. The Commission has previously highlighted that an absence of gender and wider mainstreaming in education, including in the curriculum, is a foundation for inequality and gender stereotyping. Comprehensive action should be taken by the Department of Education, schools and other education bodies, to embed equality of opportunity and good relations within the content and delivery of the curriculum²³.
- 5.9 More broadly, the Commission has consistently emphasised the need to ensure that the curriculum addresses prejudice-based bullying²⁴ and encourages a greater understanding of and respect for pupils covered by the Section 75 grounds. This includes, for example, gender identity; ethnicity; disability; and sexual orientation. To achieve an anti-bullying culture, it is important that schools recognise the range of factors to be considered as part of a whole school approach. These include, for example, creating an inclusive culture and environment; and ensuring the participation of learners and their parents / carers²⁵.

Teacher Training

- 5.10 We also reinforce the importance of supporting teachers via teacher training^{26 27} and continuous professional development to the benefit of teachers and pupils.
- 5.11 In light of the diversity of life experiences and educational needs within the Northern Ireland population, we consider it essential that all teachers are equipped to ensure students’ particular requirements are understood and

²³ See Section 8 Mainstream Equality in Education [Equality in Education: Full Position Paper \(equalityni.org\)](https://equalityni.org)

²⁴ For further details, see: [Tackling bullying and challenging stereotypes - policy recommendations \(equalityni.org\)](https://equalityni.org)

²⁵ For further details, see: ECNI: [Equality in Education: Full Position Paper](https://equalityni.org)

²⁶ For further details, see: ECNI: [Equality in Education: Full Position Paper](https://equalityni.org)

²⁷ The UN Committee on the Rights of the Child (2023) [Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland](https://www.unhcr.org/refugees/journal/2023/05/16/64111111), CRC/C/GBR/CO/6-7, para 44(b) also includes a focus on teacher training: *“Integrate comprehensive, age-appropriate and evidence-based education on sexual and reproductive health into ... teacher training and ensure that it includes education on sexual diversity, sexual and reproductive health rights, responsible sexual behaviour and violence prevention...”*

met. Initial teacher education (ITE) and continuing professional development (CPD) are key methods of achieving this.

- 5.12 We note that the Committee on the UN Convention on the Rights of the Child (UNCRC), in its 2023 Concluding Observations on the UK²⁸, recommended that “*comprehensive, age-appropriate and evidence-based education on sexual and reproductive health [be integrated] ... into teacher training and ensure that it includes education on sexual diversity, sexual and reproductive health rights, responsible sexual behaviour and violence prevention...*”.

6 Section 75 Statutory Duties

Previous Section 75 advice on this policy

- 6.1 This consultation was launched on the 1 September 2023. The Commission wrote to the Department of Education to advise on the need for an equality assessment (screening/EQIA) to be published with the consultation booklet. The Department subsequently published a screening document on its website. We welcome that the Commission’s advice early in the consultation period was implemented.
- 6.2 The following advice is intended to assist policymakers to make the equality assessment more meaningful and to ensure the equality considerations help to inform the regulations and guidance.

Policy scoping / Aims of Policy

- 6.3 As the Department’s current consultation and Section 75 screening is limited to the development of Regulations on the rights of parents to request their children to be excused, it will be important that the Department ensures that Section 75 i.e. screening and/or EQIA is also applied at an early stage in policy development to:
- any guidance produced by the Department for schools, on parents’ rights to request that their child is excused.
 - any guidance produced by CCEA, on behalf of the Department on teaching and learning materials.

²⁸ UN Committee on the Rights of the Child (2023) [Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland](#), CRC/C/GBR/CO/6-7, para 44(b). “Integrate comprehensive, age-appropriate and evidence-based education on sexual and reproductive health into mandatory school curricula at all levels of education and into teacher training and ensure that it includes education on sexual diversity, sexual and reproductive health rights, responsible sexual behaviour and violence prevention, without the possibility for faith-based schools or parents to opt out of such education”.

Data and Evidence

- 6.4 The data presented in the screening is mainly broad population level data and school census data, which provides little in terms of the potential impacts of this policy on Section 75 groups.
- 6.5 There does not appear to be any **relevant data** relating to the policy proposals. The Department should consider Section 75 data that is related to the policy proposals. Analysis of more relevant data would assist the Department's consideration of which Section 75 groups might be most impacted by lack of access to 'age appropriate, comprehensive and scientifically accurate education on sexual and reproductive rights covering prevention of early pregnancy and access to abortion'.
- 6.6 Any **gaps in data** should be linked to the Department's required **Section 75 monitoring** (see advice below) of the implementation of this policy. It will be important to put robust Section 75 monitoring arrangements in place to gather more specific and relevant data in relation to the policy once it is implemented. The purpose of this is so the actual impacts of the policy on Section 75 groups of people can be reviewed and allow further consideration to be given to mitigations and alternative policies, if necessary.

Assessment of impacts / screening decision

- 6.7 The assessment of **equality impacts does not appear to be evidence based**, given the lack of relevant data and the **qualitative evidence in the screening indicating potential major equality impacts**.
- 6.8 The assessment focuses on potential impacts on parents. It is important that the assessment of impacts considers all stakeholders, including children of various ages.
- 6.9 The Department has determined 'minor' equality impacts across all nine Section 75 categories and 'minor' impacts in relation to the impact on good relations across all three categories and has 'screened the policy out' without consideration of mitigations or alternative policies.
- 6.10 However, the screening outlines qualitative evidence, which indicates potential significant equality impacts relating to religious belief, racial groups and women/girls.
- 6.11 Given the assessment in the screening of potential significant equality impacts on a large number of schoolchildren, **an Equality Impact Assessment (EQIA) may have been appropriate**. An EQIA could enable more detailed and face to face consultation/engagement and discussion with stakeholders to further draw out and analyse these potential equality impacts and better explore opportunities for mitigations / consideration of alternative policies.

Consideration of mitigations / alternative policies

- 6.12 The screening does not identify any mitigations or alternative policies in relation to the equality impacts identified in relation to religious belief, racial group and gender.
- 6.13 The Department must consider mitigations / alternative policies where equality impacts have been identified.

Consultation

- 6.14 The Department's consultation booklet states: 'This consultation contains a number of Statements. You are asked to indicate if you agree, disagree or neither agree nor disagree with the Statements.'
- 6.15 It is important that when taking into account consultation responses, that the evidence of equality impacts identified in relation to children and parents are considered and used to inform the current policy rather than being solely based on the number of consultees that agree/disagree with the proposals i.e., that the number of consultation responses are not used as a simple 'headcount'.
- 6.16 Given that the Department is also responsible for producing two sets of guidance, it will be important that these and any accompanying equality assessments are consulted on going forward.
- 6.17 The Commission would have expected to see a child-friendly version of the consultation materials in order to fully allow participation of children and young people to participate in the consultation process. The Commission has produced guidance for public authorities on consulting and involving children and young people²⁹

Section 75 Monitoring

- 6.18 The Department must put in place Section 75 monitoring commitments of the policies it adopts. This is an Equality Scheme commitment.
- 6.19 The Department's screening assessment has not included clear Section 75 monitoring arrangements to assess the **actual** impact of the policy on each of the Section 75 categories once implemented.
- 6.20 The Department's screening assessments references keeping the guidance under review and its requirement to report by September 2026 on the implementation of the changes. It is not clear whether this reporting will include disaggregated Section 75 data in relation to those children whose parents have chosen for them to be 'opted out'.

²⁹ ECNI (2008) [Let's Talk Let's Listen - Guidance for public authorities on consulting and involving children and young people](#)

- 6.21 We would reiterate the importance of monitoring and collecting Section 75 data in relation to any instances of children being opted-out from classes providing age-appropriate and scientifically accurate education on sexual and reproductive health and rights covering prevention of early pregnancy and access to abortion.
- 6.22 In addition, as noted in the 'evidence/data' advice above, where there are gaps in data, specific Section 75 monitoring arrangements should be put in place to address these gaps.
- 6.23 Our [Section 75 monitoring guidance](#) and [Section 75 Monitoring Guide - Addendum](#) provides further information, which you may find helpful.

Action Required by the Department

- 6.24 The Department should amend and re-consider the equality assessment of this policy in light of this Section 75 advice.

7 Additional information

- 7.1 The Commission remains available to discuss any specific equality issues identified.
- 7.2 The Commission has developed extensive Education policy positions, which include recommendations and evidence on a wider range of issues of potential interest. Please see: <https://www.equalityni.org/Education/Policy>
- 7.3 For further information on the Commission's positions related to Gender, please see: <https://www.equalityni.org/Gender>
- 7.4 For the Commission's full position and recommendations regarding Equality Data, please see: <https://www.equalityni.org/EqualityData>

**Equality Commission for Northern Ireland
November 2023**