

## Article

# Mandatory Relationships and Sex Education (RSE) in England—Educators’ Views on Children’s Rights

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**Abstract:** Comprehensive sexuality education (known as Relationships and Sex Education (RSE) in England), which is age-appropriate, accurate, realistic and non-judgemental, is a tool that enables children and young people to make informed decisions about their sexual health, sexuality and well-being. As such, it is crucial towards the realisation of many of the rights of children under the UN Convention on the Rights of the Child, such as, but not limited to, the rights to information, education and health. However, in the English guidance on RSE, there is very little consideration of children’s rights, and the requirement to involve parents in the shaping of RSE curricula as well as the right for parents to withdraw children from sex education lessons potentially hinders children’s access to RSE. In this paper, we discuss the views and experiences of teachers and professional educators to ascertain the position of children’s rights in the National Guidance on RSE and in the everyday practice of teaching RSE. Their views and experiences assist us in understanding some of the motivators and barriers to teaching RSE from the perspective of children’s rights. In analysing the English approach to RSE, we used Bourke, Mallon and Maunsell’s framework and considered RSE rights under the UNCRC from the perspective of the right to education; rights in education and rights through RSE.

**Keywords:** comprehensive sexuality education; relationships and sex education; UN convention on the rights of the child



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## 1. Introduction

The UN Convention on the Rights of the Child (CRC) enshrines basic human entitlements for children, including the right to access information aimed at the promotion of their health (Article 17); preventive health care, education and services (Article 24) and the right to education (Article 29). Children have a right to such information and education so that they can stay safe and participate in their lives to the fullest extent possible.

Comprehensive sexuality education—that is, age-appropriate teachings about sex and relationships based on accurate, realistic, non-judgmental information [1]—is one crucial tool that provides children with information and education in order to make safe and informed choices. Under the CRC, therefore, children have the right to “age-appropriate, comprehensive and inclusive sexual and reproductive health education, based on scientific evidence and human rights standards” [2]. The right to comprehensive sexuality education is also asserted under other international treaties, such as the Convention on the Elimination of Discrimination Against Women (CEDAW), Articles 5 (b), 10 (h) and 16 (1) (e), and the International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 12.

Comprehensive sexuality education can be provided across many different contexts; informally, it may be provided by parents, guardians or friends. Formally, it may be provided to children at school or other educational institutions. We argue that formal sexuality education is the best means for achieving a universal baseline level of knowledge of sexuality education for children. People who receive sexual education at schools have

been shown to engage in less risky sexual behaviour, and therefore experience a lower range of negative sexual health outcomes, compared to when they have received education via informal means [3,4]. In addition, in the British context, young people have expressed a preference for receiving sexuality education at school rather than from other means [5–7].

Whilst there are individuals and groups who oppose sex education provision in schools, the international law standards are clear that it is a state obligation to do so. Yet the rights of children to sex education are enshrined in the rights of various international human rights treaties, including the right to health, the right to freedom from discrimination (for girls, LGBTIQ+ and other groups disproportionately affected by the lack of sexuality education) and other rights that we consider below. These rights are enshrined in (amongst other instruments) the CRC, which has been ratified by all states (save one). There are numerous documents of intergovernmental and other organizations that emphasise that sex education is a human right of children, and a wealth of academic literature confirms this interpretation of international law standards (although there may be debate over when and how it is provided) [8–12]. We therefore proceed on the basis that it is an obligation of states to provide it in ways that will include the formal education system (although the role of parents in the home is crucial also). There is existing literature that outlines these arguments in detail [8–12], and we do not have the scope to engage as extensively with them here in an article about sex education in England. We provide an overview of the rights and legal backdrop in Section 2.

In the English context, formal sexuality education is taught in the curriculum as Relationships and Sex Education (RSE). Yet RSE, despite the clarity in the international human rights framework, is often framed not as the right of an individual child but rather as a public health matter. The provision of sexuality education is often only seen in the context of a struggle between the state and parents who may resist such education [13]. RSE is at an important juncture in England, as it became mandatory in all schools in 2020 [14]. Many schools implement SRE via their own teachers or external providers. Yet there are a number of issues to examine. Government guidance is vague and permits schools much latitude in provision. Parents may still remove their under-16-year-old children from sex education in England. RSE can still be taught in religious schools in line with the tenets of their faiths [15].

There is much research interest in RSE at present. Research has been conducted on the views of children and young people in England on their RSE experiences [6,7]. Others have conducted similar research with children [16]. This current research is therefore building on these findings by examining more closely the practices and experiences of professionals teaching RSE from a rights perspective. In our research, we aimed to gather the views and experiences of teachers and professional educators to ascertain the position of children's rights in the National Guidance on RSE and in their work. The views and experiences of these professionals assisted us in understanding some of the motivators and barriers to teaching RSE from the perspective of children's rights [17]. We built on the work of Bourke, Mallon and Maunsell who consider SRE rights under the UNCRC from the perspective of the right to education; rights in education and rights through RSE [18]. We applied this approach to the English guidance and the views of educators and experts in the area as gathered through research interviews.

In Section 2, we discuss what RSE is within the English context. We also discuss the relevance of the UN convention on the Rights of the Child to RSE. Our research methodology is outlined in Section 3. In Section 4, we present the findings of this research, outlining the views and experiences of professionals on the National Guidance on RSE. We also consider three specific aspects of RSE teachings that arose during the research, namely: the position of children's rights in the RSE curriculum; the subject of consent and issues around rights and access to RSE. We conclude this piece with a theory of how children's rights should be situated within the RSE curriculum in England.

## 2. Children's Rights, RSE and the Law

### 2.1. What Is RSE?

There is no one, universal definition of sexuality education. Rather the term is “an inclusive descriptor that recognizes the interaction of historical, social, political, cultural psychological, legal, ethical, religious and moral factors” [19]. The phrase “sexuality education” is often used as an umbrella term to cover various aspects of the curriculum, such as sex education, relationships education, health education and other related pedagogies [20]. The content of various programmes can of course vary hugely in accordance with how it is delivered and in what context [21]. In fact, the nature of what sexuality education entails, when and whether it should be provided is sometimes a matter of some controversy. There are many different versions and types of sexuality education due to the conflicting perspectives that exist on the subject. Some believe in the need to protect children from sexual knowledge and indoctrination. Others take the view that children need information to protect themselves in the exercise of their sexuality.

Though there are different approaches to sexuality/relationships education globally, the most rights-based approach is arguably Comprehensive Sex Education (CSE) [18]. UNESCO defines CSE as an “age appropriate, culturally relevant approach to teaching about sex and relationships by providing scientifically accurate, realistic, non-judgmental information” [1]. It consists of different components [19], including *sex*, (that is, a focus on biological characteristics); *relationships*, (i.e., sexual/romantic relationships and interactions) and *sexual health*—that is, health outcomes and issues relating to sexuality [19]. CSE therefore goes beyond merely the technicalities of sex and includes reflection on “attitudes, feelings, rights, and responsibilities” [22]. As will be discussed further below, CSE is deemed to be the most children's rights-based approach because it equips children with the necessary tools to understand human sexuality, combat abuse and discrimination and make safe and informed choices about their own sexuality, sexual health and well-being.

While children can receive sexuality education from a myriad of sources, such as school, family, friends or even the Internet, television, music, magazines and personal experiences [4,19], they are most likely to receive *comprehensive* sexuality education in formal educational settings, such as schools. In fact, there are numerous benefits related to the state provision of comprehensive sexuality education for children and young people. It encourages respectful relationships [23]; for example, countries with sexuality education have better gender equality than countries that do not [23]. It empowers children and young people to be capable of making positive choices about relationships and sex, and therefore they are less vulnerable to exploitation and abuse [17]. It reduces risky behaviour and delays the age of first sex as compared to abstinence-only-until-marriage programmes [24]. It can also further the rights of various vulnerable groups in society, such as people with disabilities and LGBTQII+ people [25]. Less frequently noted, however, is the fact that states have signed up to international instruments that enshrine rights relating to sexuality education and have therefore incurred obligations in relation to this.

In England, the curriculum for sexuality education, or CSE, is referred to as Relationships Education (at primary school level) and Relationships and Sex Education (RSE) (at secondary school level). The term RSE was coined relatively recently, as the curriculum was previously referred to as Sex and Relationships Education (SRE). While Relationships Education focuses on “teaching the fundamental building blocks and characteristics of positive relationships” [14], RSE has the broader aim of “giv[ing] young people the information they need to help them develop healthy, nurturing relationships of all kinds” [14]. This includes information on contraception, developing intimate relationships, acceptable and unacceptable behaviour in relationships, resisting pressure to have sex and understanding human sexuality [14]. In the rest of this piece, we focus on RSE, which is taught at the secondary level, because it has a wider remit, and also because RSE encompasses Relationships Education, which is taught at the primary level.

## 2.2. RSE in the Context of the UN Convention on the Rights of the Child (UNCRC)

International and regional human rights law documents for the most part do not explicitly enshrine a right to comprehensive sexuality education. While there are some lone voices from religious organisations arguing against comprehensive sexuality education [26], numerous sources of international law and guidance strongly assert it as a right.

The right to comprehensive sexuality education is, for example, asserted to be an integral component of the right to health. The Convention on the Elimination of Discrimination Against Women contains an express right to sexuality education. Articles 5 (b), 10 (h) and 16 (1) (e) all require states to provide education about family matters, including family planning [27]. The right to the highest attainable standard of health is enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR, Article 12). The UN Committee on Economic, Social and Cultural Rights, the implementing body of the ICESCR, states that Article 12 obliges states to ensure that:

“[U]p-to-date, accurate information on sexual and reproductive health is publicly available and accessible to all individuals, in appropriate languages and formats, and to ensure that all educational institutions incorporate unbiased, scientifically accurate, evidence-based, age-appropriate and comprehensive sexuality education into their required curricula” [28]

The UN Convention on the Rights of the Child (UNCRC) is a document that enshrines basic human entitlements for children and has been ratified by almost every nation. The UNCRC enshrines specific rights of children to access information aimed at the promotion of their health (Article 17). It also asserts that states have the obligation to develop children’s preventive health care, education and services (Article 24). The UN Committee on the Rights of the Child, which is the monitoring and implementing body of the UNCRC, has emphasised that children have the right to “age-appropriate, comprehensive and inclusive sexual and reproductive health education, based on scientific evidence and human rights standards” [28]. The Committee further states that “ [b]asic skills include . . . life skills such as the ability to make well-balanced decisions; . . . and to develop a healthy lifestyle, good social relationships and responsibility . . . which give children the tools needed to pursue their options in life” [29]. As sexual health is part of a healthy lifestyle, various implementing bodies have emphasised the state’s obligation to provide sexuality education.

The rights to education, information and health are perhaps the most evident of the rights in the UNCRC that relate to comprehensive sexuality education. There are also a number of other rights, however, that are equally as relevant. The UNCRC holds in Article 3 that the principle of the best interests of the child should be upheld. Given the statistics about the positive effects and outcomes associated with comprehensive sexuality education, it is undoubtedly in the best interests of children as a group to receive such education. It is also in the best interest of individual children so that they understand and expect respectful relationships, and they are empowered to protect their own health and well-being. The CRC also outlines in Article 12 that children have a right to be heard in all matters affecting them and the right to have due weight accorded to their views. Children expressed via survey to the Children’s Commissioner for England how important relationships, sex and health education are to them. They stated that they value being taught about healthy relationships “in a way that is sensitive and age appropriate” [7].

Bourke, Mallon and Maunsell, drawing on the work of Howe and Covell [30], conclude that the UNCRC addresses education rights in three significant ways [18]. The right to education means that education empowers individuals to take more control over their lives, something that RSE undoubtedly can do through empowering children in relation to relationships and their bodies. It can break cycles of discrimination and disadvantage—note, for example, the potential of RSE for tackling discrimination against women and LGBTQII+ youth. Rights in education mean that children are supported as active participants and decision-makers in RSE; their right to be heard, for example, should guide the content and

the discussions. Rights *through* RSE education are broad, spanning the right of children to health, for example, as well as protection and equality [18].

Frequently, however, the focus of sex and relationship education is not on the rights of children themselves. Daly and O’Sullivan argue that the motivations behind providing such education are frequently to do with public health. Where debates occur about such education, the emphasis is frequently on the rights of parents to withdraw their children as opposed to the permission of states to provide it. They argue that states have international human rights law obligations in the CRC and elsewhere to provide sexuality education “that sexuality education, like education generally, is and should be primarily understood as a right of the child, not of the parent or state” [13].

### 2.3. RSE and the Policy Backdrop in English Schools

In England, after prolonged calls for a reform of sex education, RSE became compulsory in secondary schools in 2020, with relationship education becoming compulsory in primary schools at the same time. While the new curriculum is a step in the right direction towards enabling children’s access to basic sexuality education in schools, and therefore towards compliance with children’s rights principles, it is noticeable that compared to the Welsh and Scottish Guidance documents on RSE, the English curriculum makes the least mention of rights and, specifically, of children’s rights. [see Section 4.2 below] RSE is aimed at enabling children and young people to “be safe and healthy, and. . . to manage their academic, personal and social lives in a positive way” [14].

The new English statutory Guidance “on Relationships Education, Relationships and Sex Education (RSE) and Health Education” [14] requires schools to have an up-to-date policy on relationships education and RSE, which must be made available to parents and others, as well as published on the school website. The written policy should define Relationships Education or RSE, set out the subject content, how it is taught and who is responsible for teaching it, describe how the subject is monitored and evaluated and include information about parental rights to withdraw children from any sex education that is due to be taught.

Schools must ensure that they teach Relationships Education and RSE in a manner that is “high quality, age-appropriate and evidence-based” [14]. They must comply with the requirements of the Equality Act 2010 and ensure that they do not discriminate against pupils on the basis of any of the protected characteristics. They must make “reasonable adjustments to alleviate disadvantage” and “be mindful of the SEND Code of Practice” in planning their lessons [14]. At the same time, the Guidance emphasises that schools must take into account the religious background of all pupils in planning the teachings so that “topics that are included in the core content in this guidance are appropriately handled” [14].

In primary school, children should be taught about families and care, safety and respectful relationships, including those online. In secondary school, students should learn about the same topics, as well as intimate and sexual relationships, including sexual health. The guidance also stipulates that health education for primary and secondary students covers mental and physical well-being and fitness, the changing adolescent body, as well as drugs, alcohol and tobacco [7]. LGBT content must be taught at a “timely point”, but the Guidance leaves it up to schools to determine what this means [14].

Parents have a right to withdraw their children from any sex education components of Relationships Education or RSE. A meeting with the school principal/head teacher is advised as a good practice when a parent makes such a request [14]. It is also outlined in the guidance that the school policy should reflect the views of teachers, and the views of children and young people should be listened to and responded to [14].

While the current Guidance is certainly an improvement over the previous one, several issues still remain. Foremost, allowing parents to withdraw their children from sex education up until the age of 16 means that younger pupils are missing out on RSE due to parental opposition. Although the age of consent is 16, evidence shows that the national

median age at first sexual experience has been declining and is currently at age 14 [31]. This means that children could be sexually active before the age of 16 and yet be prevented from accessing sex education at schools by their parents. In contrast, parents are no longer afforded this right to withdraw in Wales, and this was deemed to be based on legitimate grounds in the recent High Court case of *Isherwood and Ors v Welsh Government* [32]. In the case, Steyn J emphasised that mandatory RSE would enable pupils to “develop as healthy, confident individuals, and as ethical, informed citizens of Wales and the world” [32] and were therefore “entirely consonant with the principles of pluralism and objectivity embodied in A2P1” [32]. A2P1 is the common abbreviation for Article 2, Protocol 1 of the European Convention on Human Rights, which guarantees the individual right to education but also guarantees the rights of parents to have their children educated in conformity with their religious and philosophical convictions.

Another issue is the “faith-based carve-outs” allowed in the Guidance; that is, it allows schools to teach about faith-based perspectives in RSE. Humanists UK have identified a 2021 Catholic RSE resource (“A Fertile Heart”) that stated that men were “created to initiate sexual relationships” and women to be “receiver-responders” [15]. This has now been removed due to exposure, but the organisation’s sample resources still refer to the terms “initiator” and “receiver-responders” in their glossary of key terms and their sample teaching materials [33], highlighting the possibility that similar materials may still be used in classrooms.

The British Prime Minister announced in March 2023 an “urgent review” of the implementation of the guidance in response to the suggestion by a minister of Parliament from the Conservative Party that RSE lessons are often “age-inappropriate, extreme, sexualising and inaccurate”, a claim vigorously denied by teaching unions who have referred to the claim as “politically motivated” [34]. As well as a sense that RSE is being used as a tool in this way, there is also evidence that insufficient resources are provided to schools, and inadequate support and training are provided to teachers [35].

It is in this context that we sought to examine the extent to which rights are embedded in the policy and practice when it comes to RSE in England. We sought to speak to educators and other experts on the roll-out of compulsory RSE about their views on and experiences with children’s rights in RSE and to reflect on whether the curriculum could be more children’s rights-based. We will use Bourke, Mallon and Maunsell’s framework of rights to education, rights in education and rights through education as a means of analysing educators’ responses [18].

### 3. Methodology

This current research aimed to examine the practices and experiences of professionals teaching or training on RSE from a children’s rights perspective. It involved a small-scale, independent qualitative study that took place between April and July 2020. The data were collected through semi-structured interviews with professionals.

Prior to starting this research, ethical approval was secured from the ethics committee of the University of Liverpool. Research participants were sought from among the contacts of the researchers, and invitations were widely extended through social media and other means. These contacts were encouraged to inform colleagues about the research and to pass on our contact details if they were interested in taking part. The professionals varied from teachers already employed full-time teaching in a particular school or those working on behalf of specialist organisations, such as sexual health charities. Some “snowball sampling” was involved, as existing study participants were invited to recruit future participants from among their colleagues and other contacts. The recruitment process was somewhat hampered with COVID-19 lockdown measures in place at the time of this research, which resulted in professionals and researchers having less scope to engage in research (or act as participants) due to acute time constraints, primarily because of a lack of childcare.

Each participant’s informed consent was obtained prior to the interview, and participant data were subsequently anonymised to avoid identification. For further anonymity,

participants were asked to describe their job title in a manner that they felt best applied to them but still offered a degree of anonymity; a list of these is provided in Appendix A below.

A total of seven individuals took part. Most were female, and one was male. Of the seven participants, four self-identified as RSE teachers/educators, while three of them had specialist roles that were related to the teaching of RSE. One participant (Interview 5) was a director of an umbrella organisation consisting of charities and other entities with an interest in RSE (this umbrella organisation provides training to teachers and others on RSE). Another participant (Interview 6) was director of a youth development organisation near London. Likewise, this organisation also, amongst other things, provided teacher training in schools. The third participant specialised in teaching and coaching young people with cognitive disabilities (Interview 1). Although these individuals were in a different position compared to those directly providing general RSE, there were numerous intersections in the points made on the issues identified as important in the area of RSE in England.

We were seeking in these interviews to ascertain the views and experiences of teachers and professional educators on the position of children's rights in the National Guidance on RSE and in the everyday practice of teaching RSE. Children have rights that take numerous forms under numerous international instruments when it comes to RSE. As noted in Section 2, children have rights to information and to the highest attainable standard of health, for example, under the UN Convention on the Rights of the Child. Yet a children's rights discourse is clearly absent when it comes to sex education, as noted by Daly and O'Sullivan and others. It appeared essential, therefore, that the views and experiences of educators in this area were ascertained in an attempt to better understand motivators for and barriers to teaching RSE from the perspective of children's rights. Interviewees were therefore asked questions relating to their perceptions of where rights are relevant in relation to RSE; how children's and parents' rights can be balanced in this arena and their perceptions of how accessible RSE is for children (and consequent rights issues that might arise here).

There are some limitations to the data, most notable of which is the fact that the sample size is quite small. This was due to the fact that there was a very high rate of those declining to participate in the research. Despite the small sample size, it was felt during the course of interviews that saturation point had been reached. We adopted Glaser and Strauss's definition of saturation, which is that "no additional data are being found whereby the [researcher] can develop properties of the category" [36,37]. We also felt that we had reached data saturation with this group of participants because participants were giving us broadly similar answers in response to our interview questions [38]. Considering our use of snowball sampling as a recruitment method, we did not feel that the recruitment of further participants would have added new data to the research. We searched for particularities in the data provided by the different types of providers (e.g., those in NGOs versus teachers), and none were found.

That said, we acknowledge that all of the participants who responded to requests to take part in our research were those in the private/non-governmental organisation sector. This group is possibly more favourable to RSE and to a rights approach. Research involving RSE practitioners not from the same sector (such as schoolteachers) may well have yielded different findings. Further research is therefore needed (on RSE and children's rights) that engages teachers who happen to teach RSE in their schools, as they will likely have additional views/experiences to share. In spite of the small sample size, common themes were identified amongst the participants' answers, and the researchers found the data to be very insightful in relation to the position of the rights discourse in RSE in England after the introduction of the new Guidance.

An informal thematic coding framework has been used for the purpose of coding the data. This thematic analysis has been used to identify themes across the different interviews [39,40]. The primary themes that emerged and were most commonly touched

on will be presented and analysed. As the sample size is small, there will be no reference to quantitative information on participant responses.

#### 4. Findings

##### 4.1. *Rights to Education: Access to Adequate RSE for All Children*

In Section 2.2 above, we argued that children have the right to age-appropriate, comprehensive and inclusive sexual and reproductive health education. This was a view that was echoed by all of the participants we spoke to, who expressed that it is a rights issue as to whether children are being provided with such education. All participants, when asked about rights, expressed the view that RSE was a right of children. This is perhaps unsurprising considering these professionals self-selected to be involved with this research that presupposes and explores a rights-based approach to RSE and also considering their career consisted of RSE provision. This participant expressed:

“In our work, we’ve always said that it’s a child right, it’s every child’s right, they are entitled to good quality, comprehensive relationships and sex education. . . regardless of where they get it, they still have that right.” (Interview 5: director of RSE for England umbrella organisation)

She continued by outlining that the crucial point was how that right was going to be met for every child: “There’s the universal offer of education, so school becomes the best vehicle to meet that right, therefore we campaign for legislation to say that schools must deliver this.” She outlined that the legislation now in place is imperfect, but it is very positive that something is in place even though “it doesn’t actually guarantee every child’s right to RSE’.

The same participant felt that it is important to establish how the curriculum is working and which children may not be receiving RSE, such as home-schooled children and those from minority groups:

“What’s happening about the children who are home educated? Are we meeting the needs of children educated outside mainstream school in pupil referral units, young offenders’ institutions, hospitals, all the rest of it? What about groups like gypsy Roma traveller children who we know quite often have been withdrawn from RSE but it isn’t impossible for them to be included, so you know let’s look out for particular groups that might be not having their rights fulfilled.” (Interview 5: director of RSE for England umbrella organisation)

She also emphasised particular problems with the inadequate provision of SRE for students with disabilities: “you have a right as a child with a special educational need to access the curriculum, but there isn’t the kind of how to guidance out there” (Interview 5: director of RSE for England umbrella organisation). Another participant likewise emphasised the particular circumstances for children with cognitive disabilities and their right to have education tailored to their particular situations: “they’re more likely to find themselves in a relationship that they . . . that they shouldn’t be in.” (Interview 1: teacher/coach of children/young people with neurodevelopmental conditions—Northwest) What these participants have said is somewhat concerning, particularly as the Guidance specifically reminds teachers and schools to “make reasonable adjustments to alleviate disadvantage and be mindful of the SEND Code of Practice” in planning the curriculum [14].

Another participant raised the issue of insufficient investment in sex education. She emphasised that teachers often lacked training and that her umbrella organisation worked to make SRE as accessible as possible: “there’s been such under-investment in the subject, they haven’t had you know years of training or any training often”. (Interview 5: director of RSE for England umbrella organisation) There is a distinct impression that private schools, or simply schools that are better funded, are in a much stronger position to provide RSE, as they can buy-in private, expert providers. State schools, on the other hand, may have to rely on reluctant teachers trained in other subjects.



Frequently, teachers in-house are expected to provide it when they are not well-placed to do so due to a lack of training or lack of objectivity:

“one of the main issues that people mostly have when they’re asked to teach, they haven’t been briefed on how to do that and they take their own values with them into the classroom. Yes. And it could be catastrophic!” (Interview 3: RSE consultant/educator—Southeast)

When one considers the rigours of the school day and the confines of various timetables, it becomes clear why it may be tempting for schools to refrain from providing comprehensive RSE:

“If you kind of look at a standard state school day, of kids arriving at 8.45 and then they maybe have form time for a little bit and they have back to back lessons where they are shovelled from pillar to post with not really a whole load of breathing, thinking, resting time. Then they’re out the door at 3.15 or 3.24, the priorities are literacy, numeracy, science, whatever gets them the right amount of points for league tables for sort of performance related data. So even as an art teacher, and I’ve probably got a bit of a chip on my shoulder about it, but even historically as an art and textiles teacher, you just had them pulled out of your lessons the whole time because it wasn’t an important subject. You know you’d sit down to do an amazing lesson, I don’t know on environmental using different materials, and then half the class would be taken out for a maths intervention.” (Interview 4: RSE educator for independent schools)

#### 4.2. *Rights in Education: Children’s Rights and the RSE Curriculum*

Bourke, Mallon and Maunsell define rights in education as the “extent that children are supported as active participants and decision-makers in the development and implementation of the sexuality education curriculum” [18]. The Guidance states that RSE policies should reflect the views of teachers and pupils, and further, that “listening and responding to the views of young people will strengthen the policy, ensuring that it meets the needs of all pupils” [14].

However, beyond this one sentence, the Guidance makes no further attempt to elaborate on when and how schools should consult with pupils or what weight is to be given to pupils’ views on what should be taught as part of the curriculum. Our participants also perceived a general lack of knowledge and awareness of children’s rights and of the CRC. This educator expressed it as follows:

“I think I have actually never come across any classroom with different ages of children and young people who actually have ever heard about the UNCRC . . . I think most people don’t know about children’s rights. I mean they may have heard the word but . . . they are not able to apply the UNCRC to their everyday life or in school.” (Interview 3: RSE consultant/educator—Southeast)

If there are no clear means or mechanisms stipulated for consulting children and if children themselves are not aware of their rights to express their views, then it is rather unlikely that RSE policies will be developed with much input from pupils. Our participants however gave examples of how they involved pupils in co-developing lessons.

One teacher/coach of children/young people with neurodevelopmental conditions expressed that she would base her work on scenarios that the young people themselves came up with: “Everybody’s . . . everybody’s different really, but what we do is we work . . . because we work with them, they will come up with a topic”. She expressed that she would base a session around something the young person was experiencing:

“So they might come up with something like . . . it might be you know an on-line situation that somebody’s got a bit of a concern about, and we’ll say, well OK, well let’s just have a look at that, what might that . . . what do we need to learn about this? What might it look like? And then I’ll just put a session together based

on . . . on that, because that way they want to learn it, and then I feed it back into the group and say, OK remember we talked about this, well we're going to do a session on this and we're going to look at it from lots of different perspectives." (Interview 1: teacher/coach of children/young people with neurodevelopmental conditions—Northwest)

She felt that this opened up discussions to the group rather than placing one young person under pressure to talk about their own experiences. She gave the example of a young person who was speaking about her new boyfriend online:

"I said, oh that's nice, so where did you meet him? So we had a little chat about it. And then before we realised it, you know he . . . she's never met him, she's never seen a photograph of him. . . so we looked at that in the session. And you know . . . her idea of what was going on in that situation was very different than what might have been, but nobody's looked at it from the other person's perspective before." (Interview 1: teacher/coach of children/young people with neurodevelopmental conditions—Northwest)

While it says little about children's rights, the Guidance says very much about parental rights in RSE. Where there is only one reference to consulting pupils; there are eight references to consulting parents on RSE policies. More importantly, the law and the Guidance provide parents with "the right to request that their child be withdrawn from some or all of sex education delivered as part of statutory RSE" [14]. The parental right to withdraw is largely based on Article 2 Protocol 1 (A2P1) of the European Convention on Human Rights (ECHR) which states that:

"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."

However, our participants have noted the potential for allowing parents such rights to interfere with children's access to RSE. This participant linked this fact to the lack of explicit children's rights basis and language in RSE: "I think as long as you have a parental right to remove children from sex education. . . you have that tension and I think it will be difficult to argue the case of a child's right as long as you have parental rights over the child in this specific area" (Interview 3: RSE consultant/educator—Southeast).

Participants also expressed their sense that schools and teachers are very concerned about displeasing parents when it comes to providing RSE. The requirement to consult parents, as well as the parental right to withdraw, therefore provides a "strong inducement for schools to . . . self-censor their [RSE] curriculum in order to discourage parents from withdrawing their children from lessons" [6]. This is particularly so given that where a pupil is withdrawn from sex education, the school is responsible for providing alternative "appropriate, purposeful education during the period of withdrawal" [14], which is becoming increasingly difficult in light of budget cuts to schools [41]. As Lundy points out, many schools operate within "a tight financial framework that is at its most efficient when provision is uniform" [42].

Nevertheless, the participants we spoke to have expressed many ways of getting parents on board with the RSE curriculum. One participant explained that parents are generally very enthusiastic once they understand the content of the RSE education: "when they understand that the overarching messages of getting good, accurate, evidence based information, understanding decision making. . . looking after your body and your mind and your friends, then what parent can argue with that?! What teacher can argue with that?!" (Interview 4: RSE educator for independent schools).

Some educators provide simultaneous parent and child sessions, which they express can create significant positivity around RSE for the school and for parents: "Yeah, I think we just need to educate them, and we do do some like parent sessions and teacher sessions as well and hopefully we're unravelling some of this stuff" (Interview 2: education specialist with RSE charity). This educator believed that there was now greater consultation with

parents, which was a positive thing: “I think the new . . . the new requirement for parental consultation is actually working you know towards really building a partnership with parents” (Interview 3: RSE consultant/educator—Southeast).

Based on what participants have said, it is clear that there is a way to work with parents in order to get them on board with RSE programmes for children. Further, parents can play a key role in supplementing formal RSE education for their children so that learning takes place in a holistic manner. If parents have a particular standpoint or view on a specific matter to do with RSE, they may still broach that with their children at home so that their children will have a broad range of views on the topic. In this manner, the right of parents to direct their children’s education, as enshrined under international treaties (such as Article 2, Protocol 1 of the European Convention on Human Rights), can continue to be upheld even as the rights of children to access RSE is given effect to.

#### *4.3. Rights through Education: The Nature of RSE Guidance*

Rights through education are the rights that can be realised when children are given access to appropriate and good-quality sexuality education [18]. As discussed in Section 2.2 above, comprehensive sexuality education equips children with the necessary tools to understand human sexuality, combat abuse and discrimination and make safe and informed choices about their own sexuality, sexual health and well-being, thereby realising their rights under the UNCRC as well as their human rights.

This participant, for example, expressed that it was a matter of the right information so that children and young people could protect themselves from harm: “young people should have the right of access to information and there should be an obligation on states to prepare young people [to] minimise sexual exploitation, sexual abuse, as well as minimise STIs and unplanned pregnancy” (Interview 7: RSE practitioner in London). It was also emphasised that children had the right information about sexual health, as well as a right to services around that. This participant emphasised that many children and youth that she worked with believed that they would not be permitted to buy condoms until age 16: “And that is something that we try and emphasise in every session, because it’s so important that young people know that that is their right. And I guess that we’re also talking a lot about sexual right as well and their right to say no and just consent in general actually” (Interview 2: education specialist with RSE charity).

Unfortunately, however, there are negligible references to children’s rights in the English Guidance document. There is no reference to the UNCRC. The only reference to rights is to “ensuring young people understand that they have rights over their own bodies” [14] and “rights and responsibilities as citizens” [14]. This highlights the phenomenon outlined by Daly and O’Sullivan that RSE is frequently not portrayed as a right of children [13]. The position in England is in stark contrast to the position in Scotland and Wales. The Scottish Guidance document makes the most explicit reference to children’s rights in the three countries. In their Guidance on Relationships, Sexual Health and Parenthood (RSHP) Education, specific reference is made to children’s rights under the UNCRC and the potential for RSHP to realise these rights [43]. The Welsh Guidance stipulates that “Learning about rights and equity runs through all the strands [of RSE], as well as embedding learning and experience through a rights-based approach to the learning” [44].

The participants had clear advice on the nature of what a good RSE curriculum entails. A curriculum should not just be about facts. An educator will want to have “scenarios, things to explore, as well as accurate information about your body and sexual health. Although there should be some agreed common values there should also be ‘space to explore variations on that” (Interview 5: director of RSE for England umbrella organisation).

Empowerment is a strong theme of the content of RSE: “anticipating and owning sort of pleasure and enjoyment and fun and looking after your body and your mind and your friends . . . that’s like the portal of everything we’re doing, is empowering them to just keep themselves and each other a bit safer” (Interview 4: RSE educator for independent schools).

RSE should also be lifelong and developmental, so it should be based on knowledge about children's development and respond to that (Interview 5: director of RSE for England umbrella organisation). Ideally, a needs assessment of students should be conducted by teachers before the RSE teacher arrives to conduct lessons. However, participants expressed that time precluded this being performed. "Unfortunately, teachers are often so busy that if we suggest it, they think, yes it's a good idea, but realistically am I going to have time to do it? So often consultation and needs assessment is not done." (Interview 7: RSE practitioner in London).

Participants emphasised that the guidance was broad and not focused on how to achieve bespoke or high-quality sex education. She felt that the guidance does not provide practical guidance on how to teach the subject well, but rather "it's sort of weaving through a lot of the politics . . . it sets out broadly what the curriculum should cover" but does not advise on how to choose resources or how to navigate the complexities of managing the class, issues that might arise with parents or how to make the curriculum one's own as an educator (Interview 5: director of RSE for England umbrella organisation). Another educator expressed that the guidance is "up for interpretation and that is deliberately done so because you have got faith schools that will try to shape it around . . . their own faith." (Interview 3: RSE consultant/educator—Southeast).

Participants outline some key missing elements from the guidance. This teacher outlined that parent education and early education are needed: "You know if this becomes something that's done at home with two-year-olds and three-year-olds [and], not just about, oh my God you're nearly sixteen, we need to talk about the word consent!" (Interview 4: RSE educator for independent schools). Another participant emphasised that the curriculum and the one before was too narrow and insufficiently covered important issues that he perceived as being "too little too late", and he felt that this was reflected in research with young people:

"But at the same time, one of the reasons why young people in all the research say it's too little too late, there's not much on relationship, there's not much inclusion around LGBTQ and . . . and that's partly because schools haven't been including those, they've done the minimum . . . ? done the minimum of what's required under the National Curriculum. But young people are saying that they want it . . . they want better RSE." (Interview 7: RSE practitioner in London)

Participants broadly felt that this flawed guidance was the beginning of a positive journey for RSE. One expressed that the guidance "has been pushed through, and I guess you have to think of it as the beginning of something better." She saw a lot of positives in the willingness of schools to get it up and running (Interview 3: RSE consultant/educator—Southeast).

Consent is, of course, a crucial rights issue in RSE and was an issue that came up for many participants. The guidance states that: "Key aspects of the law relating to sex which should be taught include the age of consent, what consent is and is not. . ." [14]. Teachers often expressed just how led by young people they were in the way that they teach about consent.

Consent can also be learned from very early on, educators emphasised: "where young children learn about boundaries from very young, then the conversation about sexual consent later is an easy one to walk" (Interview 3: RSE consultant/educator—Southeast). Consent as a two-way process was also highlighted. This educator outlined how she tries "to give young people in particular a sense of relationship around consent and how difficult it is to be very clear about consent if you don't actually know each other and if you don't have a proper conversation" (Interview 3: RSE consultant/educator—Southeast).

Although educators emphasise in their teaching "that non-consensual sex is wrong", the law is not the language used in this discussion: "You don't start off with this is the law. . . sometimes they would view law as, well it's too remote, they're not going to be interested in this. . ." (Interview 7: RSE practitioner in London). Educators try to make it more relevant to children's everyday relationships: "So we start really basic about friendship. . . a very

relaxed environment for young people to feel and to understand.” (Interview 6. Director of a youth development organisation near London).

The Equality Act 2010 is explicitly referenced in the government guidance: “In all schools, teaching should reflect the law (including the Equality Act 2010) as it applies to relationships, so that young people clearly understand what the law allows and does not allow, and the wider legal implications of decisions they may make” [14]. Because of this, the Act is quite explicit in teaching also. “And how like . . . we do talk about the Equality Act quite a bit too because we’re really trying to tell young people that you know it is a hate crime to be transphobic, to be homophobic” (Interview 2: education specialist with RSE charity). This element of the law was found to be prevalent in educators’ understanding of the law and seen as something in their curriculum that could be engaged with to respect and uphold rights.

Some teachers expressed that the law could be a real obstacle, however, to teaching children and young people about SRE. As this teacher expressed, the law was perceived by students as quite threatening when it came to SRE: “And there’s just you know this standard, I thought I was going to get arrested [for sexual activity] because I’m only fourteen or I’m only fifteen or . . . it just stops them accessing the services that are there to support them before they’re sixteen.” (Interview 4: RSE educator for independent schools)

This teacher emphasised the importance of arming young people with knowledge around the legal age of consent, image sharing and the law around the use of substances: “if we’re not kind of empowering young people to know all the sides of the stories then we’re driving them underground to not ask for help, and that’s rubbish.” (Interview 4: RSE educator for independent schools) This participant said that she and her colleagues tried to frame the situation so that children and young people understood that the law was there to protect them rather than to criminalise them:

“Yeah, so we often talk about sex and the law . . . I think it mostly comes up when we’re talking about sexual consent and sex and the law, and trying to help young people realise that it is there to protect them and it’s not about criminalising young people that have maybe have sex at fifteen you know, if they’re in a healthy relationship and if they’re both happy to and they do engage in sexual activity at the age of fifteen, the law isn’t going to prosecute them, it is there to protect them.” (Interview 2: education specialist with RSE charity)

Participants gave the distinct impression that the way that they teach consent is not primarily based on law. Rather, it is around examining respect for others and basing the learning of students on views and experiences.

The special circumstances involved when one is teaching young people with autism about consent were also raised. It is important to work through issues relating to consent for this group, it was emphasised, as they may have particular vulnerabilities around understanding relationships: “they find themselves being vulnerable to exploitation and find themselves in situations that they don’t want to be in”. So, if they say they are in love with somebody that they have met on the internet, educators take a discursive approach to education around respect and consent: “So we teach them all the appropriate language that should be used and what should raise alarms with them really” (Interview 1: teacher/coach of children/young people with neurodevelopmental conditions—Northwest).

The nature of good quality RSE then clearly involves programs that are well tailored to the particular group being taught. It should be performed according to the interviewees with rights in mind. The starting point should be that it is the right of children to receive information and engage in awareness-raising discussions about real-life issues that affect them. Laws should not be engaged in education in a way that frightens children and young people. They should receive the basics of legal knowledge that they need around consent, laws for the online world relating to images and so on. However, it should be made clear that the laws serve to help them and that they need to ask appropriate trusted people for assistance rather than deal with problems on their own.

It is clearly difficult, however, to frame SRE as a child's rights issue when the state, and therefore schools, are unduly focused on refraining from displeasing parents. Clearly, what the educators and experts in this research are expressing here is that in order to ensure that children's rights are embedded into SRE, the perceived rights of parents should not be so prominent. The approach should be one of discourse with parents rather than prioritising their authority in a way that detracts from the importance of RSE for children. The vast majority of parents value the age-appropriate SRE education that their children receive [45]. It is a minority of parents who do in fact object to such education, and it should not be the case that this minority dictate the approach to SRE in a way that stifles children's rights.

## 5. Conclusions

The placing of RSE on statutory footing in English schools is certainly a welcome move. However, there remains a sense from professionals educating and training in RSE that the measures are still insufficient for delivering quality RSE. Participants feel strongly that children have a right to RSE. However, there is clearly no explicit sense of the right of children to RSE in the RSE Guidance, and there are no references to the UNCRC. While comprehensive sexuality education has the potential to realise many rights of the child, without guidance on an explicit rights discourse, it is inevitable that this will not trickle down into the classroom itself.

As noted above, Bourke, Mallon and Maunsell state that the UNCRC addresses education rights in three significant ways [18]. The right to education means that education empowers individuals to take more control over their lives. Participants felt strongly that RSE enables children to better access sexual health services, enjoy respectful relationships and stay safe from exploitation and danger. RSE in England can also help with tackling discrimination against women and LGBTQII+ youth, particularly as the Guidance requires schools to take protected characteristics under the Equality Act of 2010 into account when developing RSE policies.

Rights in education mean that children are supported as active participants in RSE; their right to be heard, for example, should guide discussions [18]. Daly, Heah and Liddiard have argued for the recognition of children's autonomy and rights in making decisions about their personhood, as well as about their access to RSE. They, however, take the approach that autonomy is relational rather than binary. So, rather than thinking that children are either autonomous or not, we should support children to exercise their autonomy by building their capacity and giving them information necessary to make decisions for themselves [17]. In our research, we have seen our participants use the capacity-building approach to encourage children's exercise of autonomy. There is certainly a sense from educators that a discursive approach is the right one to take in RSE. There is a sense that they ensure that children guide discussions but that questions and scenarios proposed by the children themselves are at the heart of lessons. Educators instinctively emphasise the facilitation of open conversation about respect for others rather than insisting on a legalistic approach to understanding consent. Whether this is the case in all RSE is unclear, however, as many schools will opt not to bring in expert RSE teachers but instead rely on teachers already employed who may not have adequate training.

Rights through RSE education are broad, spanning the right of children to health, for example, as well as protection and equality [18]. It is clear that the underinvestment in RSE is a significant problem for the well-being of children and young people. In particular, children and young people with disabilities can suffer from a lack of RSE, stemming from a lack of understanding of the diversity of the lives of disabled children and the narrative of disabled children being particularly "vulnerable" [17]. Paradoxically, failure to provide disabled children with RSE may render them even more vulnerable to exploitation and abuse [17]. Also, schools with fewer resources tend to be much less likely to have adequate RSE. There is a sense from participants that teachers frequently do not want to deliver RSE and that schools often prefer to hire private providers of RSE. This is unsurprising given that teachers often lack training and confidence to teach RSE; as noted in the responses

from a public consultation on the new RSE Guidance, one of the most common themes for disagreement was the underestimation of the amount of training staff would need [46].

Finally, one main problem with the RSE curriculum is the role that parents can play in withdrawing children from sex education. It is inevitable that some parents will prevent their children from accessing RSE. Ironically, opposition to RSE tends to stem from a desire to protect children from sexual information due to their perceived vulnerability and innocence [6], but it is precisely factors such as information, education and support that will make a difference to how vulnerable one actually is [13]. There is not a sense yet amongst professionals as to the extent to which this may be happening. It seems that a “vocal minority” may be giving the impression that this problem is worse than it actually is. However, the retention of the parental right to withdraw children from some RSE lessons means that in some cases, children may not be able to realise their right to access RSE. This is a striking contrast to the situation in Wales where parents no longer have the right to withdraw. Importantly, we do not seek to argue that parents should have no right to determine their children’s sexuality education. Rather, our argument is that parents should play a role in supplementing formal RSE so that children will have access to a baseline level of information on RSE, which is then expanded upon by their parents.

Overall, children’s rights are very absent from the English Guidance on RSE, and our research with educators has demonstrated that it is likely absent from the roll-out of the curriculum also. This is at least in part linked to the persisting emphasis on consulting parents in developing policies and enabling parents to withdraw children from sex education lessons. The circular argument here is that if RSE is not explicitly recognised as a right of the child, schools will continue to feel the need to defer to parents’ wishes, either in shaping the curriculum or in allowing the withdrawal of children from lessons. We would argue, therefore, for clearer recognition of children’s rights both in the Guidance as well as in everyday classroom settings, following the examples of Scotland and Wales. We would also encourage further research with teachers and parents to be able to take a more comprehensive approach to embedding children’s rights into RSE frameworks.

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**Conflicts of Interest:** The authors declare no conflict of interest.

## Appendix A. List of Participants

Interviewee ID No	Role	Location	Gender
1	Teacher/coach of children/young people with neurodevelopmental conditions	Northwest	female
2	Education specialist with RSE charity	Unspecified for anonymisation purposes	female
3	RSE consultant/director	Southeast	female
4	RSE educator for independent schools	Unspecified for anonymisation purposes	female
5	Director of RSE for England (umbrella organisation)	Central	female
6	Director of youth development organisation	Near London	female
7	RSE practitioner	London	male

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