



DEFENDING

Relationships and Sex Education and Equality

BRIEFING PAPER

FEMINIST DISSENT

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Executive Summary

This briefing paper has been produced by *Feminist Dissent* to defend the provision of Relationships Education (RE) and Relationships and Sex Education (RSE) in all schools. Our intention in producing this document is to support the work of those who have struggled for years to ensure that RSE is made compulsory in all schools by:

- providing legal guidance to teachers, heads of schools, school governors and other interested parties on how the equalities law applies to the implementation of RE and RSE in schools;
- defending the Convention on the Rights of the Child, the principle of equality and non-discrimination to ensure the creation of an equitable education system that centres the rights of all children to full intellectual and bodily autonomy;
- offering a critical analysis of the religious fundamentalist networks and the ideological commitments of those opposing RE/RSE in schools, including by countering the myths being perpetuated by fundamentalist organisations;
- analysing the government's proposals and identifying areas where we feel the proposals could be improved to ensure equality for all children and young people.

Key arguments

1. Current limitations in government proposals

Current government guidance on RE/RSE, introduced in July 2019 is a welcome development but it carries three significant limitations that put the teaching of RE/RSE at risk of disruption by fundamentalists. These are as follows:

- The emphasis on flexibility leaves head teachers open to pressure from anti-RSE protests by making them solely responsible for what their school implements;
- The greater emphasis on parental rights over children's rights has the potential to significantly undermine the introduction of RE/RSE into schools. Arguments around parents' rights have previously acted as a lever which conservative and fundamentalist parents have used to withdraw their children from sex education. This is now being used as the basis of campaigns against RE and RSE;
- The guidance privileges consultation with religious organisations and religious leaders reflecting the belief that many communities are uniformly religious. We argue by contrast that communities are not homogeneous and that it is more appropriate that specialist women's and children's groups who have a proven track record of work in this area should be key stakeholders in advising and shaping RE/RSE delivery.

2. Fundamentalist opposition to RE/RSE is political

Fundamentalists are employing many strategies to oppose RE/RSE and pressurise schools in their local areas – some are engaged in intimidating protests outside school gates while others are equipping parents to lobby school governors and head teachers to determine and restrict what is taught [see Part 2 for details]. These campaigns are based on deliberate misinformation designed to frighten and confuse parents. There is thus a profound lack of integrity at the heart of their arguments. For instance, fundamentalists are claiming that RE/RSE creates a hierarchy of rights by promoting the rights of sexual minorities over the right to hold and manifest religion. Moreover, they argue that the state has no business in interfering with religious values or in seeking to influence these values through its institutions.

3. Contrary to the claims of fundamentalists, teaching RE/RSE does not amount to discrimination and is actually consistent with equality and human rights law.

Leading discrimination lawyers make clear that the teaching of RE/RSE does not amount to discrimination on religious grounds under equality and human rights law because education is a service that is aimed at pupils rather than their parents [see Part 3 for full details]. As long as RE/RSE is delivered in a non-detrimental manner to pupils who hold religious views and is undertaken with the aim of pursuing the wider legitimate aim of combatting discrimination and prejudice and fostering good relations between different groups, it will not amount to discrimination. The legal analysis, detailed in this briefing, exposes the fallaciousness of fundamentalist claims that the teaching of RE/RSE amounts to ideological indoctrination or discrimination on religious grounds.

Recommendations

Following these arguments, we have a set of nine recommendations for government, schools, and their regulatory bodies.

1. The government must uphold and promote non-discrimination and equality principles in all schools in accordance with the Equality Act 2010, the Human Rights Act 1998 and other international human rights laws and standards to enable all children to flourish and develop their full potential and participate in society as citizens.
2. The government must advance the interest of equality by centring the rights of all children and guaranteeing access to a full and varied education including access to relationships and sex education.
3. Children's rights to education should be underpinned by a rights-based approach to education rather than an approach that is compromised by religious or cultural sensibilities that seek to limit the right of all children to access education in its broadest sense.

4. RSE teaching should be made compulsory in all schools and taught in accordance with equality and human rights law in an age-appropriate way to all children, regardless of their backgrounds. Particular attention must be paid to the promotion of equality between the sexes and adherence to the requirements of the Istanbul Convention on combatting violence against women and girls which the Government has committed to ratifying.
5. RSE content must form a core rather than a discretionary component of the national curriculum, delivered through fixed sessions and monitored by Ofsted. The content should be decided by a group of experts with backgrounds in education and in promoting equality and upholding human rights principles, especially in relation to gender equality within minority communities.
6. Schools should seek to consult a range of groups and stakeholders within minority communities including women, sexual minorities and other sub-groups who are also members of minority communities. Religious or faith-based organisations and groups should not be privileged or assumed to be representative of community needs and values.
7. The right of parents to withdraw children from sex and relationships education must be abolished. The right to freedom of expression, to be safe from violence, to enjoy a healthy childhood and to a full and equal education for all children must be fully protected.
8. The teaching of diverse family forms must form an essential part of the RE/RSE curriculum so that schools can foster a culture in which all children feel valued and can develop a sense of self-worth.
9. Schools and their regulatory bodies must have greater awareness of how conservative and fundamentalist religious forces seek to control educational content in order to curtail the right of all children to have equal access to knowledge and information. Particular attention must be paid to demands that restrict children's and women/girls' right to access information that promotes healthy relationships, intellectual, sexual and bodily autonomy.

Introduction

In July 2019 the UK Government issued regulations for the introduction in September 2020 of compulsory Relationships Education (RE) for primary school pupils, Relationships and Sex Education (RSE) for secondary school pupils, and compulsory Health Education (HE) for all schools. In the wake of the coronavirus pandemic, the Department for Education has allowed some flexibility for schools to introduce some of the topics slowly until full implementation by summer 2021.¹ This is not the case for any other statutory subject.

In April 2019 and the months that followed, a series of highly vocal and often aggressive protests by local Muslim activists and some Muslim parents in Birmingham opposed the teaching of diverse family forms in two primary schools. This mobilisation gathered pace to become a larger opposition to the Government's proposals for compulsory relationships education (RE) and relationships and sex education (RSE) to be rolled out in all primary and secondary schools from September 2020. Although the protests garnered considerable media attention, the public debate that followed was more often than not riddled with misinformation and discussion reduced to a simple misconceived binary in which so called 'Muslim values' were pitted against 'British' liberal values. The framing of the debate in this way silenced the voices of many other Muslim parents who opposed the fundamentalist representation of their views by the protest leaders and supported the right of their children to have a broad and complete education. What remained unaddressed were a series of questions about why the protests were taking place at this particular political juncture, the people and organisations behind them and the question of how equality should be addressed in schools to make education truly inclusive, safe and transformational.

This briefing paper has been produced by *Feminist Dissent* to address these questions. As the protests unfolded, many of us recognised the religious fundamentalist agenda behind the protests and this is why we set about gathering evidence to expand the debate. We have four aims here:

- to provide legal guidance to teachers, heads of schools, school governors and other interested parties on how the equalities law applies to the implementation of RE and RSE in schools;
- to defend the Convention on the Rights of the Child, the principle of equality and non-discrimination to ensure the creation of an equitable education system that centres the rights of all children to full intellectual and bodily autonomy;
- to offer a critical analysis of the religious fundamentalist networks and the ideological commitments of those opposing RE/RSE in schools, including by countering the myths being perpetuated by fundamentalist organisations;

¹ Emmerson, L. (2020) 'Extra flexibility, but RSE is more vital than ever' in *Schoolsweek* dated 25th June 2020. Available at: <https://schoolsweek.co.uk/extra-flexibility-but-rse-is-more-vital-than-ever/> [last accessed 3rd December 2020].

- to analyse the Government’s proposals and identify areas where we feel the proposals could be improved to ensure equality for all children and young people.

In this paper we set out why we believe this is an important issue that deserves attention. The briefing paper is divided into three parts. The first provides an outline of the Government’s RE and RSE proposals but also offers a critical analysis of its limitations. The second provides an overview of the anti-RSE lobby and tackles the ideological underpinnings of the fundamentalist organisations and activists opposing RSE. The final part examines key principles of equality and human rights law to counter fundamentalist claims that the teaching of RSE in accordance with these laws amounts to religious discrimination. The paper ends by calling for the rights of children to be placed front and centre in the promotion of equality in education.

In this Introduction, we begin by setting out the reasons why children and young people deserve equal access to RE/RSE, and why fundamentalist opposition to RE/RSE seeks to undermine this.

Why are the new regulations on RSE important?

Women’s and children’s organisations have argued that compulsory sex education and clear discussions about healthy relationships are vital for tackling violence against women and children and for promoting equality. RSE is important for equipping children and young people with the knowledge they need to resist pressure, to understand consent and report abuse. There is considerable research evidence that underlines the need for comprehensive and compulsory RSE for all children and young people:

- The need to tackle sexual violence within schools has become an urgent issue with several governmental and non-governmental organisations noting the scale, the severity and the long-term impacts.² All of these inquiries recommend compulsory sex and relationships education;
- Young people who cite school as their main source of information about sex are less likely to report negative sexual health outcomes like unsafe sex and STIs;³

² Relationships and sex education has been a key recommendation for the Office of the Children’s Commissioner inquiries into child sexual exploitation (see Berelowitz, S. et al. 2013. *If only someone had listened: Office of the Children’s Commissioner’s Inquiry into Child Sexual Exploitation into Gangs and Groups*. Available at: https://www.childrenscommissioner.gov.uk/wp-content/uploads/2017/07/If_only_someone_had_listened.pdf)

and the government inquiry into sexual harassment in schools (see Women and Equalities Committee. 2016 *Sexual Harassment and Sexual Violence in Schools*. Available at: <https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/91/91.pdf>)

The urgent need to address this situation has been underlined by the thousands of victim-survivor posts to the Everyone’s Invited site (<https://www.everyonesinvited.uk/>) and the Ofsted report on sexual abuse in schools (<https://www.gov.uk/government/publications/review-of-sexual-abuse-in-schools-and-colleges>)

³ MacDowell et al. (2015) Associations between source of information about sex and sexual health outcomes in Britain: findings from the third National Survey of Sexual Attitudes and Lifestyle (Natsal-3).

- There has been an exponential increase in the distribution of violent pornography⁴ and young people have far greater access than ever before.⁵ This is shaping their understanding of relationships and sex.⁶ It's even more worrying that pornography is being described as the 'default sex educator' for young people;⁷
- A wide variety of young people's organisations have voiced their support for RE/RSE in schools; the 2016 Girls Attitudes Survey by Girlguiding reported that 81% of girls and young women aged 11-21 felt that government should ensure PSHE (which includes RSE) is taught in all schools. A study by the National Union of Students found that 90% of respondents agree that RSE in school should be a legal requirement;⁸
- Government itself has recognised that children and young people from minority communities may not receive any sex or relationships education from their parents or family members and therefore are wholly reliant on schools to gain this knowledge.⁹

Although sex education has been compulsory for all maintained secondary schools since 1993 and some elements were embedded within the national curriculum for science for 5-16 year olds, the absence of a legal requirement for relationships education meant that some schools only taught sex education within science. Moreover, Academies and Free Schools were not required to teach sex education at all and Independent Schools were only required to teach Personal, Social, Health and Economic (PSHE) education in line with their school's aims and ethos. PSHE could include sex and relationships education but it wasn't a requirement. This meant that of 24,909 primary and secondary schools in England, a miniscule number of students at just 1,083 local authority maintained secondary schools were actually subject to a legal requirement that ensured they received some form of sex education.¹⁰ Moreover, the

⁴ Vera-Gray, F., McGlynn, C., Kureshi, I. and Butterby, K. (2021) Sexual violence as a sexual script in mainstream online pornography, *The British Journal of Criminology*, 2021; <https://doi.org/10.1093/bjc/azab035>

⁵ Das, S. (2021) Porn sites used by children show 'criminal' sex acts. *The Times*. Available at: <https://www.thetimes.co.uk/article/porn-sites-used-by-children-show-criminal-sex-acts-zsl5x6rjd>

⁶ See the following:

Horvath, M.A.H., Alys, L., Massey, K., Pina, A., Scally, M. and Adler, J.R. (2013) *Basically... porn is everywhere: a rapid evidence assessment on the effects that access and exposure to pornography has on children and young people*. Project Report. Office of the Children's Commissioner for England, London, UK. Available at:

<https://eprints.mdx.ac.uk/10692/1/BasicallyporniseverywhereReport.pdf>

Coy, M and Horvath, M (2018) Young People, Pornography and Gendered Social Practices. In Lamb, S. and Gilbert, J. (eds) *The Cambridge Handbook of Sexual Development*. Cambridge University Press, Cambridge.

⁷ Flood, M. (undated) Pornography has deeply troubling effects on young people but there are ways we can minimise the harms. *The Conversation*. Available at: <https://theconversation.com/pornography-has-deeply-troubling-effects-on-young-people-but-there-are-ways-we-can-minimise-the-harm-127319>

⁸ As detailed in Department for Education (July 2018) *Relationships Education and Relationships and Sex Education: Impact Assessment*. Department for Education: London. Available at:

https://consult.education.gov.uk/pshe/relationships-education-rse-health-education/supporting_documents/RSE%20impact%20assessment%2010.7.2018.pdf

⁹ See page 11-12 of Department for Education and Employment (July 2000) *Sex and Relationships Education Guidance*. Department for Education and Employment: London. Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/283599/sex_and_relationship_education_guidance.pdf

¹⁰ See page 10-11 of Department for Education (July 2018) *Relationships Education and Relationships and Sex Education: Impact Assessment*. Department for Education: London. Available at:

quality of sex education in schools was poor. A survey of 2326 young people by the Sex Education Forum found: 22% rated their SRE provision as 'bad' or 'very bad'; 46% had not been taught how to tell when a relationship is healthy; 44% did not know when a relationship is abusive and another 7% were not sure if they knew; 50% had not learnt the difference between safe and unwanted touching; over 50% said they did not know how to get help if they were subjected to unwanted touching or sexual abuse; and a third had not been taught about sexual consent.¹¹ This is an unacceptable situation and more so in light of the prevalence of sexual violence in schools and the Government's own inquiries into child sexual abuse. The 2019 regulations put RE, RSE and HE on a statutory footing thereby ensuring that all children and young people, irrespective of which type of school they attend, can receive vital information and space for discussion.

Why does equality matter?

Equality is the common basic premise of all contemporary political thought. It is also a foundational value and the cornerstone of a progressive democracy, signifying the view that all human beings are of equal worth and have the right to equal participation in the economic, social and political structures of society. This means that all human beings must be afforded the same rights, dignity and freedoms. This principle of democratic equality is an ethical idea that underpins international human rights law and, despite serious challenges, still enjoys a broad consensus among ordinary people throughout the world.

As a result of struggles and campaigns by many in civil society, successive governments in the UK have had to give full effect to the right to equality by adopting laws and other measures to eliminate discrimination and to ensure that all public bodies act in conformity with this right. One example of such a campaign is that waged by Southall Black Sisters (SBS) in 2009, when it brought a successful judicial review against Ealing Council for withdrawing its funding for specialist services for black and minority women subject to abuse. The central question was whether or not the existence of SBS as a specialist service broke discrimination law. By the end of the hearing however, the presiding judge, Lord Justice Moses, gave a judgment reiterating a progressive definition of equality first advocated by the chairman of the Equalities Review in his 2007 report *Fairness and Freedom*:

An equal society protects and promotes equal, real freedom and substantive opportunity to live in the ways people value and would choose so that everyone can flourish. An equal society recognises people's different needs, situations and goals and removes the barriers that limit what people can do and can be.¹²

https://consult.education.gov.uk/pshe/relationships-education-rse-health-education/supporting_documents/RSE%20impact%20assessment%2010.7.2018.pdf

¹¹ Sex Education Forum (2016) *Heads or Tails? What young people are telling us about SRE*. Available at: <https://www.sexeducationforum.org.uk/resources/evidence/heads-or-tails-what-young-people-are-telling-us-about-sre>

¹² See *Fairness and Freedom: The Final Report of the Equalities Review*. 2007 https://dera.ioe.ac.uk/26640/1/equality_review.pdf

The judgment was significant because it reiterates a concept of equality that is transformative – based on the idea that everyone has the substantive freedom to live in ways that they value and choose without prejudice and discrimination. This means tackling the social, economic, political, legal and cultural conditions that place limits on people’s ability to flourish and achieve their potential and the freedom to be who they want to be.

The Equality and Human Rights Commission echoes this definition of equality:

(E)quality is about ensuring that every individual has an equal opportunity to make the most of their lives and talents. It is also a belief that no one should have poorer life chances because of the way they were born, where they come from, what they believe, or whether they have a disability.¹³

In the UK, this version of equality is far from being properly enshrined in the law or in the policies and workings of public bodies. There are still many gaps between the idea of equality and the reality. For example, the UK has not tackled economic inequality, which is growing, and many public bodies have conflated the idea of equality with diversity, which is not the same thing. Diversity means recognising and accepting difference among individuals and groups in society and placing a positive value on difference but it is not a substitute for equality. Ultimately, the defence of equality is not an abstract exercise, it is about honouring the many struggles that have been waged to give children rights, and to make education equal and accessible to all children, irrespective of background.

What is religious fundamentalism?

We use the term ‘religious fundamentalists’ to characterise the sorts of political networks and organisations opposed to RE/RSE, women’s rights and other equalities. This term captures the way particular kinds of organisations and the political programmes they promote represent something much more than people who are ‘very traditional’ or ‘old-fashioned’. Rather than being backward looking, fundamentalist movements are modern political movements which use religion to make *political* arguments and gain *political* power. *Feminist Dissent* has been concerned with the rise of these movements and the threat they pose to equality and human rights for some time. We define religious fundamentalism as:

...modern religious-political interpretations of religious texts, which aim to create a social order based on a 'return to fundamentals' of an imaginary utopian past. The control of the minds and bodies of women and sexual minorities are central to this ideology. Fundamentalist movements want to impose their version of religion as the only valid one. They aim to reduce plural spaces and the right to interpret, dissent and doubt. They are often backed by violence or the threat of violence.¹⁴

¹³ Available at: <https://www.equalityhumanrights.com/en/secondary-education-resources/useful-information/understanding-equality>

¹⁴<https://feministdissent.org/>

Fundamentalist movements are a form of politics which develops out of religion, but which uses mechanisms of power to impose their conception of religion over all others. In doing this, they consciously destroy much of the historic and syncretic legacy of religious thought and practice. The highly simplistic and sectarian version of religious doctrine they seek to impose is for this reason rejected by many religious people. Fundamentalists are deeply hostile to any challenges to their ultra-conservative and reductionist interpretations of religious tradition, and always seek to silence critical and dissenting voices, sometimes with violence. Fundamentalist tendencies are growing in all major religions throughout the world; Christianity, Hinduism, Islam, Judaism, Buddhism and Sikhism.

Why are fundamentalists opposed to RSE?

Central to the fundamentalists' agenda is the re-establishment of patriarchal power in the family which they present as divinely mandated, alongside the inherent 'sinfulness' and 'moral degeneracy' of homosexuality. The theologian Patricia Madigan in her study of religious fundamentalism argues that this has an 'intrinsically patriarchal character which by selectively retrieving doctrines, beliefs and practices' from the past seeks 'to shape a religious identity that will then become the basis of a recreated "neo-patriarchal" social and political order' (2011:21).¹⁵ For fundamentalists, the sexualised female body and the 'feminised' gay male body represent the 'morally debased' and 'corrupt' nature of modernity. Fundamentalist movements view women's and LGBT equality as representing an 'assault' on the 'traditional family'.¹⁶ This is an argument they use to disguise the fact that the development of a pro-child, pro-woman and pro-LGBT agenda within society, and within religion, represents something to which they are utterly opposed.

Fundamentalist movements are also concerned by the introduction of RE/RSE in schools because educational institutions have the potential to represent an alternative to the control they want to exercise over the minds and bodies of girls and women. They want this because they see women and girls as the property of the group or the family and they actively oppose all forms of bodily and sexual autonomy. Sex and relationships education has the potential to give children and young people the information they need to enhance their intellectual, bodily and sexual autonomy. Instead, fundamentalists want to maintain these areas of life shrouded in misinformation and shame, allowing patriarchal religious institutions to control and regulate female sexuality. All over the world we see fundamentalist groups asserting this

¹⁵ Madigan, Patricia (2011) *Women and Fundamentalism in Islam and Catholicism: Negotiating Modernity in a Globalized World* Peter Lang, Berne.

¹⁶ Organisations such as the World Congress of Families are examples of the way anti-women's rights and anti-gay rights activists from across the world come together for a 'spiritual defence of the family'. See Provost, C. (2017) "This is a war": Inside the global "pro family" movement against abortion and LGBT rights. Posted to *Open Democracy* on 6th June 2017. Available at: <https://www.opendemocracy.net/en/5050/global-anti-abortion-lgbt-rights/>

Also: Bhatt, C. (1997) *Liberation and Purity: Race, Religious Movements and The Ethics of Postmodernity*. Routledge (in association with UCL Press), London, UK.

and Brekke, T. (2012) *Fundamentalism: Prophecy and Protest in the Age of Globalization*. Cambridge University Press, UK.

strategy by claiming a moral right to remove children from an allegedly immoral non-religious curriculum and to place religious injunctions at the centre of the way education is organised and delivered. The US based evangelical home-schooling movement *Generation Joshua* epitomises this and the group's founder Michael Farris describes those parents who are part of this movement as 'the Moses generation who have successfully led children out of the bondage of Godless public schools' (Goldberg, 2006:1).¹⁷ The ideas around female and LGBT equality contained within RE/RSE are thereby presented by fundamentalists as morally corrupting children. Fundamentalists are campaigning on this issue because they want to limit the rights of state authorities to introduce liberal pro-equality initiatives and to overturn existing protections for girls and for LGBT pupils – all of which are undertaken in the name of promoting religious morality in opposition to state authoritarianism, despite the extreme authoritarianism of their own outlook.

In Part 2 of this Briefing Paper, we discuss in more detail the history of fundamentalist interventions in education and explain the way the UK Government has deferred to 'religious privilege' in the face of campaigns run by fundamentalists and other religious conservatives. We are very concerned that this will undermine the widely recognised goal of embedding RE/RSE properly in the curriculum. Indeed, we have seen so far that when Government ministers are reluctant to defend RE/RSE unequivocally, that this gives a green light to fundamentalists to organise and campaign against RE/RSE, a process which is already gaining momentum across the UK. We turn first, however, to a fuller discussion of the RE/RSE proposals themselves, including where we see these as leaving too much space for fundamentalist mobilisations.

¹⁷ Generation Joshua's former director Ned Ryun describes the organisation as promoting the Judeo-Christian philosophy which 'starts with God the Creator, but then it also protects life, it's about traditional marriage, one man, one woman' (Goldberg, 2006:4). The organisation has continued to grow in influence and many have pointed to the way their students played a key role in helping the Republicans achieve such successful electoral results. See King, L. (2016) 'Home schooled teens helped Republicans win key Senate races' on *USA Today News*. Available at: <https://eu.usatoday.com/story/news/politics/elections/2016/2016/11/18/home-schooled-teens-helped-republicans-win-key-senate-races/94072084/>

To get an idea of the scale of this development, there are currently around 2 million home-schooled children in the US and ¾ of parents asked about their reason for doing this, referred to the 'need to provide religious or moral instruction'. See Institute of Education Sciences (2008) *Issue Brief: 1.5 million home schooled children in the US in 2007*. Available at: <https://nces.ed.gov/pubs2009/2009030.pdf>

PART 1 – Government Proposals and their Limitations

This section provides an overview of what the Government is proposing before considering what we see as the key limitations of the current approach namely: the problems of a ‘flexible’ approach; the ‘right’ to withdraw vs the right to access; multifaithism and community pressure.

What is the Government proposing?

The Children and Social Work Act 2017 placed a duty on the Secretary of State for Education to ensure that ‘(a) every registered pupil who is provided with primary education at the school is provided with relationships education, (b) every registered pupil who is provided with secondary education at the school is provided with relationships and sex education, except in so far as the pupil is excused as mentioned in paragraph 25A, and (c) every registered pupil is provided with health education.’ To this end, the Department for Education (DfE) produced draft guidance and a regulatory impact assessment and put these out for consultation from 19th July 2018 to 7th November 2018.

Following the consultation process, Government issued regulations for the introduction in September 2020 of compulsory Relationships Education (RE) for primary school pupils, Relationships and Sex Education (RSE) for secondary school pupils, and compulsory Health Education (HE) for all schools.¹⁸ The new regulations replace the 2000 Sex and Relationships Education guidance.¹⁹ Although these subjects have not been added to the national curriculum (see discussion on flexibility below), they will be subject to Ofsted inspections.

The new Relationships Education, Relationships and Sex Education and Health Education (England) Regulations 2019 require schools to produce a written policy, which should define relationships education (for primary education), relationships and sex education (for secondary schools) and relationships and sex education where primary schools have chosen to also teach sex education in ways other than that taught within the science component of the national curriculum. The policy should set out the subject content, who will teach it, how it will be taught, how it will be evaluated and monitored. Also, the policy should advise on non-negotiable parental rights to withdraw their children from any sex education component at primary school level and the right to request for their children to be excused from sex education at secondary school level. The school’s policy should also include dates for review and should meet the requirements of the Equality Act.

¹⁸ Department for Education (July 2019) *Relationships Education, Relationships and Sex Education (RSE), and Health Education: Statutory Guidance for Governing Bodies, Proprietors, Head Teachers, Principals, Senior Leadership Teams, Teachers*. Department for Education, London. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805781/Relationships_Education_Relationships_and_Sex_Education_RSE_and_Health_Education.pdf

¹⁹ Department for Education and Employment (July 2000) *Sex and Relationships Education Guidance*. Department for Education and Employment, London. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/283599/sex_and_relationship_education_guidance.pdf

While the statutory guidance is not prescriptive about *how* RE, RSE and HE should be delivered, it does list what students should know at the end of the primary and secondary curriculum. It also makes clear that where schools depart from the elements that stipulate whether they should, or should not, do something, they will need to have good reasons for doing so.²⁰ Below are some examples of what the guidance states students should know by the end of the primary and secondary curriculum. The statutory guidance is available in full on Gov.uk.²¹

Relationships Education (RE) – Primary schools

Pupils should know:

- that other families, either in school or in the wider world, sometimes look different from their family, but that they should respect those differences and know that other children’s families are also characterised by love and care;
- that marriage represents a formal and legally recognised commitment of two people to each other which is intended to be lifelong and that marriage in England and Wales is available to both opposite sex and same-sex couples. The Marriage (Same-sex Couples) Act 2013 extended marriage to same-sex couples in England and Wales. The ceremony through which a couple get married may be civil or religious;
- the importance of respecting others, even when they are very different from them (for example, physically, in character, personality or backgrounds), or make different choices or have different preferences or beliefs;
- that each person’s body belongs to them, and the differences between appropriate and inappropriate or unsafe physical, and other, contact;
- how to report concerns or abuse, and the vocabulary and confidence needed to do so.

Relationships and Sex Education (RSE) – Secondary schools

Pupils should know:

- that there are different types of committed, stable relationships;
- the legal rights and responsibilities regarding equality (particularly with reference to the protected characteristics as defined in the Equality Act 2010) and that everyone is unique and equal;
- that specifically sexually explicit material, for example pornography, presents a distorted picture of sexual behaviours, can damage the way people see themselves in relation to others and negatively affect how they behave towards sexual partners;

²⁰ Department for Education (July 2019) *Relationships Education, Relationships and Sex Education (RSE), and Health Education: Statutory Guidance for Governing Bodies, Proprietors, Head Teachers, Principals, Senior Leadership Teams, Teachers*. Department for Education, London. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805781/Relationships_Education_Relationships_and_Sex_Education_RSE_and_Health_Education.pdf

²¹ See: <https://www.gov.uk/government/publications/relationships-education-relationships-and-sex-education-rse-and-health-education>

- the concepts of and laws relating to: sexual consent, sexual exploitation, abuse, grooming, coercion, harassment, rape, domestic abuse, forced marriage, honour-based violence and FGM, and how these can affect current and future relationships;
- that there are choices in relation to pregnancy (with medically and legally accurate, impartial information on all options, including keeping the baby, adoption, abortion and where to get further help).

Curiously under the discussion of the law, there is reference to extremism, radicalisation and hate crime but no explanation of how these issues might connect with relationships and sex education.

The DfE together with subject matter experts (including from within the violence against women and girls' sector) have created more detailed 'training modules' to support school leads in training teachers how to meet each of the statutory guidance points. These modules are also available on the gov.uk site though we note that the material to support delivery of the 'Being Safe' statutory points for RSE in secondary schools have not yet been published.²²

Unfortunately, there are several limitations to the new regulations which we address in turn below. Our view is that schools can and should find a way to counteract these in order to offer the best possible education to children and young people.

Problems with flexibility and the pressure on head teachers

The new regulations make these subjects compulsory for all schools but the subjects have not been added to the national curriculum, which, as Government points out, only applies to a small percentage of the 24,909 schools in the UK. Of particular concern to us is the following statement:

Schools will retain freedom to determine an age-appropriate, developmental curriculum which meets the needs of young people, is developed in consultation with parents and the local community. Schools must also comply with the relevant provisions of the Equality Act as noted earlier. Where appropriate this may also require a differentiated curriculum. Schools have specific duties to increase the extent to which disabled pupils can participate in the curriculum.²³

While some schools may see the Government's emphasis on flexibility as a positive step in giving schools the space to develop their own content and to do so as a response to specific local public health issues, the pressure to negotiate with parents and local communities has left head teachers isolated and under considerable pressure from those most vocal and

²² See Teacher Training Modules available here: <https://www.gov.uk/guidance/teaching-about-relationships-sex-and-health#train-teachers-on-relationships-sex-and-health-education>

²³ Page 41 of Department for Education (July 2019) *Relationships Education, Relationships and Sex Education (RSE), and Health Education: Statutory Guidance for Governing Bodies, Proprietors, Head Teachers, Principals, Senior Leadership Teams, Teachers*. Department for Education: London. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805781/Relationships_Education_Relationships_and_Sex_Education_RSE_and_Health_Education.pdf

powerful within local communities. The absence of a specific centrally decided curriculum and enforcement of compulsory attendance across the board will continue to place considerable strain on individual head teachers who, as we have seen with the protests in Birmingham, are being vilified wherever they have challenged the demands of local lobbies and parents. Also, the reference to a 'differentiated curriculum' could apply as much to accommodate religious sensibilities as it does to adjustments for students with disabilities. There is a significant risk that schools will compromise key elements of RSE content in order to meet demands in relation to religion and culture, particularly when these are presented as equalities issues.

There is also little information on how RSE will be delivered. The fact that RSE has not been added to the national curriculum and the emphasis on flexibility means that schools may well continue to deliver RSE content through ad hoc 'drop down days' rather than as fixed weekly classes.²⁴

The right to withdraw vs the right to access

The foreword to the new regulations presents parents and carers as 'the prime educators for children on many of these matters' and suggests that '(s)chools complement and reinforce this role and have told us that they see building on what pupils learn at home as an important part of delivering a good education'. This is very different to the 2000 guidance which questioned the assumption that parents talk with their children about sex and relationships or that they feel comfortable doing so. While limited on several fronts and in need of updating, the 2000 guidance did acknowledge that ethnic minority children often rely on schools for this education as they do not receive this at home:

Research with families shows that children cannot always rely on their parents to talk to them about puberty or sex. In particular, a range of children from black and other minority ethnic communities are less likely to talk to their parents about sex and relationships. Some young women and young men from some minority ethnic communities may rely on schools as their main, and sometimes only, source of sex education.²⁵

This issue is not addressed by the new guidance.

In fact, under the new regulations, parents of primary school children will retain a non-negotiable right to withdraw their child from any sex education teaching, should the school choose to include sex education in their delivery of RE. At secondary school, parents can

²⁴ Rape Crisis England and Wales (November 2018) *Submission to Government Consultation on the proposed Relationships Education (RE), Relationships & Sex Education (RSE) & Health Education (HE) Guidance for Schools in England*. Available at: <https://rapecrisis.org.uk/news/latest-news/rape-crisis-responds-to-government-consultation-on-relationships-sex-education-rse/>

²⁵ See page 11-12 of Department for Education and Employment (July 2000) *Sex and Relationships Education Guidance*. Department for Education and Employment: London. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/283599/sex_and_relationship_education_guidance.pdf

request for their child to be excused from the sex education components up until three terms before their child turns 16. While the guidance does highlight the need for head teachers to consider the wishes of the child before granting such requests, the DfE's guidance for parents makes clear that their requests ought only to be denied in exceptional circumstances.²⁶ There is no guidance for teachers or schools on the nature of these 'exceptional circumstances'. Moreover this appears to undermine the ethos of the Gillick competence and Fraser guidelines where the child's safety and well-being, not the parent's rights, are paramount in the provision of knowledge, advice and treatment on contraception and sexual health – If the child is assessed to have the mental capacity and maturity to understand the information given, they are able to consent to that material or support even where their parents disapprove.²⁷ Moreover, the Welsh Assembly recently decided to remove parental rights to withdraw their children from sex education and from religious education,²⁸ demonstrating that it is entirely feasible to privilege the right of children's access to knowledge over the right of parents to withdraw their children (on whatever grounds). Unfortunately, the Welsh Assembly have positioned BAME groups and religious groups (and not women's organisations) at the forefront of determining the content of these modules.

The new regulations also oblige schools to seek parental views on proposed content and to alert parents to their rights. On preparing for these new subjects, schools are expected to 'work closely with parents' such as by inviting them into the school to learn about what will be delivered and by giving them 'every opportunity to understand the purpose and content of RE and RSE', to 'ensure that parents know what will be taught and when', and 'clearly communicate the fact that parents have the right to request that their child be withdrawn from some or all of sex education delivered as part of statutory RSE'.²⁹

The underlying assumption is that very few parents withdraw their children from sex education and that there is considerable parental support for the teaching of sex education in schools; the Impact Assessment suggests that only four in every 10,000 pupils are withdrawn from sex education. Surveys by the National Association of Head Teachers (NAHT)

²⁶ See page 2 of Department for Education (undated) *Understanding relationships, sex and health education at your child's secondary school: a guide for parents*. Department for Education: London. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/812594/RSE_secondary_schools_guide_for_parents.pdf

²⁷ For further information on Gillick competence and Fraser guidelines see the comprehensive guide on the NSPCC website at: <https://learning.nspcc.org.uk/child-protection-system/gillick-competence-fraser-guidelines#heading-top>

²⁸ BBC News (2020) 'Sex and religious education to be compulsory in Wales' posted to *BBC News* website on 21st January 2020. Available at: <https://www.bbc.co.uk/news/uk-wales-51177649>

²⁹ Page 11- 12 of Department for Education (July 2019) *Relationships Education, Relationships and Sex Education (RSE), and Health Education: Statutory Guidance for Governing Bodies, Proprietors, Head Teachers, Principals, Senior Leadership Teams, Teachers*. Department for Education: London. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805781/Relationships_Education_Relationships_and_Sex_Education_RSE_and_Health_Education.pdf

and Mumsnet are cited to evidence high levels of parental support for sex education as well as parental support for making RSE a compulsory part of the curriculum.³⁰

However, other research and anecdotal information from local organisations suggests that this is not the case, particularly for ethnic and religious minorities. Dhaliwal and Patel (2006) found that for three secondary schools in one local authority in London, the vast majority of requests to withdraw children from sex education and extra-curricular activities came from ethnic minority parents and related to the curtailment of girls' access to education.³¹ The Humanists' response to the new regulations warns that '(y)oung people who grow up in insular religious communities might not receive any information from their parents on issues such as safeguarding, consent, safe sex, and LGBT relationships so it is vital that schools fill this gap'.³² The Survivors Collective point to the incredible danger of 'parental rights' as schools will be the main space where children being abused at home can gain information on sex and abuse. As a collective supporting people who were sexually abused as children, they are concerned that the absence of compulsory sex education at primary school level is a missed opportunity for helping children to recognise and raise concerns about sexual abuse within the home. It is for this reason that we see sex education at all levels of education as a safeguarding responsibility.

When taken together, these findings (the 2000 Government guidance mentioned above and the recent mobilisations against RSE) would suggest that ethnic and religious minority children and young people, particularly girls and young women, will be disproportionately impacted by this Government's concession to parental rights. Moreover, as is clear from the next section, fundamentalist organisations are specifically using the parental rights lever to disrupt plans for RE and RSE teaching in schools.

Multifaithism and community pressure

Since 1997, successive Labour and Conservative governments have embedded a practice that we refer to as multifaithism. This is a new settlement between government and its citizens but particularly between government and ethnic minority communities. It has involved recognising religious organisations and religious leaders as the main representatives of those communities and also recognising them as a specific sector – the faith sector. It has institutionalised their role in the formulation and delivery of public policy and led to a huge increase in state funding of religious organisations (including the expansion of state funding for schools with a religious ethos), and the privileging of religious identities above all other

³⁰ See pages 9 & 13 of Department for Education (July 2018) *Relationships Education and Relationships and Sex Education: Impact Assessment*. Department for Education: London. Available at:

https://consult.education.gov.uk/pshe/relationships-education-rse-health-education/supporting_documents/RSE%20impact%20assessment%2010.7.2018.pdf

³¹ Dhaliwal, S. and Patel, P. (2006) *Multiculturalism in Secondary Schools: Managing Conflicting Demands*. Working Lives Research Institute: London.

³² Humanists UK (February 2018) *Consultation: Changes to the Teaching of Relationships and Sex Education and PSHE*. Available at: <https://humanism.org.uk/wp-content/uploads/2017-01-22-FINAL-RSE-and-PSHE-consultation-Humanists-UK-response.pdf>

identities. Fundamentalists have been the most proactive and well-resourced to take up these opportunities and push forward their agendas.

While it is true that schools are located within communities and their relationship with those communities is very important, the Government's guidance positions the needs of pupils on par with the needs of parents and 'the local community'. However, though 'local communities' are made up of diverse interests and attitudes, the guidance presents communities as more homogenous than they actually are, and also places emphasis on their religious character. This allows religious leaders to present themselves as the voice of those communities and privileges religious identities and organisations in the state's negotiations with local communities. It allows religious leaders to define the interests of the communities through the lens of their own interests while excluding other voices. The particular way that the religious lobby can dominate the local landscape, impose their content and silence dissent was clearly demonstrated by the treatment of Gary Kibble, a teacher at Batley Grammar School who shared a caricature of Prophet Muhammad as part of a discussion on blasphemy. Ironically, he faced protests and death threats and had to go into hiding for a short while. Although Kibble was later reinstated, the school was 'forced to admit' that the image had caused deep offence and the teacher was forced to apologise and concede that the image was 'entirely inappropriate'.³³

Unfortunately, a simple comparison between the current guidance and the 2000 guidance for Sex and Relationships Education shows the incredible surge in Government expectation that schools should engage in 'community consultation' and multifaithist practice. This was almost entirely absent in the 2000 guidance. The 2018 consultation document and related impact assessment indicate that the Government are acutely aware of religious objections to the teaching of sex and relationships education³⁴ yet they invited religious bodies and faith communities to roundtables to intervene in the development of this agenda.³⁵ VAWG sector organisations, teaching unions, and many other vital third sector organisations working in this area were not invited to these roundtables, suggesting that religious groups and religious voices have been given a privileged place in the consultation process. They are also the main non-governmental bodies that are referred to in the Government's documents on RE, RSE or HE.

³³ Malik, K. (2021) 'To live in a free society means to live with debate. Bring it on' posted on *The Guardian* on 28th March 2021. Available at: <https://www.theguardian.com/commentisfree/2021/mar/28/islam-batley-yorkshire-defend-debate-discussion-offence>

³⁴ See page 22-23 of Department for Education (July 2018) *Relationships Education and Relationships and Sex Education: Impact Assessment*. Department for Education: London. Available at: https://consult.education.gov.uk/pshe/relationships-education-rse-health-education/supporting_documents/RSE%20impact%20assessment%2010.7.2018.pdf

³⁵ See page 6 of Department for Education (July 2018) *Relationships Education and Relationships and Sex Education: Impact Assessment*. Department for Education: London. Available at: https://consult.education.gov.uk/pshe/relationships-education-rse-health-education/supporting_documents/RSE%20impact%20assessment%2010.7.2018.pdf

Though fully aware of religious objections to teaching RE/RSE, the Government has failed to challenge these. The FAQs document assures religious groups that ‘the religious background of pupils must be taken into account when planning teaching, so that topics are appropriately handled. Schools with a religious character can build on the core content by reflecting their beliefs in their teaching’.³⁶ The new regulations also assure faith schools that they can teach faith perspectives on relationships and since content is not prescriptive, they can ‘teach these subjects according to the tenets of their faith’.³⁷

What does this mean in practice? Dhaliwal’s (2012) research indicates that some state-funded Catholic schools may teach the law on particular issues but they will simultaneously assert their objection to sex outside of marriage, homosexuality, and abortion.³⁸ This approach fails to embody the equality requirements discussed below and allows some faith schools to perpetuate harmful taboos and misinformation regarding for example, menstruation, which contribute to body shaming, stigmatisation and segregation.³⁹

The new regulations direct readers to the Catholic Education Service (CES) website as offering model tools for faith schools to provide sex and relationships education and note the commitment of some religious groups to deliver RSE. A closer look at the model documents produced by CES, however, revealed that alongside a claim that they address safeguarding issues, sex, sexuality, consent and bodily autonomy and even gendered double standards, they continue to emphasise chastity and the sanctity of marriage. There is little reference to teaching about contraception, despite the fact that statutory guidance states secondary students should be taught ‘the facts about the full range of contraceptive choices, efficacy and options available’.⁴⁰ The CES also make clear their intention to talk about the sanctity of life in the context of discussions on abortion as well as proclaimed tensions between human rights and religious beliefs.⁴¹

³⁶ See page 2 of Department for Education (March 2019) *FAQs: Relationships Education, RSE and Health Education*. DfE: London. Available at: <https://www.gov.uk/government/news/relationships-education-relationships-and-sex-education-rse-and-health-education-faqs>

³⁷ Ibid.

³⁸ Dhaliwal, S. (2012) *Religion, Moral Hegemony and Local Cartographies of Power: Feminist Reflections on Religion in Local Politics*. Available at: <http://eprints.gold.ac.uk/7802/>

³⁹ For example, Al-Hijrah School teaches that “tampons may not be appropriate due to insertion” and Hasmonian High School and The King David High School both use relationships education to claim that a menstruating woman is “impure”. See National Secular Society [2018] *Unsafe Sex Education* Available at: <https://www.secularism.org.uk/uploads/unsafe-sex-report-april-2018.pdf>. Also, National Secular Society (2nd November 2018) *Written evidence submitted by the National Secular Society to the consultation on Relationships education, relationships and sex education, and health education* Available at: <https://www.secularism.org.uk/uploads/relationships-sex-and-health-education-2018-consultation---nss-response-1.pdf>

⁴⁰ Department for Education (9th July 2020) *Relationships and Sex Education (Secondary)*. Available at: <https://www.gov.uk/government/publications/relationships-education-relationships-and-sex-education-rse-and-health-education/relationships-and-sex-education-rse-secondary>

⁴¹ Catholic Education Service ‘Relationships and Sex Education: Lesson Resources’ on the CES website at: <http://catholiceducation.org.uk/schools/relationship-sex-education>

Moreover, these regulations state: ‘Schools must ensure they comply with the relevant provisions of the Equality Act 2010, under which religion or belief are amongst the protected characteristics’ even though the Religion and Belief strand is not on par with other equality strands in this context (see Part 3: Defending Equality below). In fact, it is difficult to envisage a situation where schools may need to offer a differentiated curriculum for a child because of his/her religious beliefs. As the National Secular Society (NSS) point out, this could be seen as discriminatory.⁴²

Sex, gender equality and gender identity

We are also concerned about the absence of discussion in the new regulations regarding the disproportionate impact of violence and abuse on women and girls and therefore the need to address gender inequality as part of RE/RSE/HE classes. In line with concerns raised by VAWG organisations, the following point was added to the revised guidance:

31. Schools should be alive to issues such as everyday sexism, misogyny, homophobia and gender stereotypes and take positive action to build a culture where these are not tolerated, and any occurrences are identified and tackled. Staff have an important role to play in modelling positive behaviours. School pastoral and behaviour policies should support all pupils.

Sex is a protected characteristic under the Equality Act 2010, along with Sexual Orientation and Gender Reassignment. Gender and gender identity are neither defined nor protected in the Equality Act. Despite this, gender and gender identity have replaced sex in the description of the Equality Act by many public bodies, from councils to schools to unions, courts, and the NHS. We believe this may serve to diminish the importance of sex as a protected characteristic, while encouraging a reliance on and promotion of gender stereotypes, when in fact schools should be challenging them.

While this report was being written, in September 2020, the Government published a guidance for schools called *Plan your Relationships, Sex and Health Curriculum*. We welcome this paragraph, in the section on ‘Ensuring Content is Appropriate’:

We are aware that topics involving gender and biological sex can be complex and sensitive matters to navigate. You should not reinforce harmful stereotypes, for instance by suggesting that children might be a different gender based on their personality and interests or the clothes they prefer to wear. Resources used in teaching about this topic must always be age-appropriate and evidence based. Materials which suggest that non-conformity to gender stereotypes should be seen as synonymous with having a different gender identity should not be used and you should not work with external agencies or organisations that produce such material. While teachers should not suggest to a child that their non-compliance with gender

⁴² National Secular Society (2nd November 2018) *Written evidence submitted by the National Secular Society to the consultation on Relationships education, relationships and sex education, and health education*.

stereotypes means that either their personality or their body is wrong and in need of changing, teachers should always seek to treat individual students with sympathy and support.⁴³

Sex, not gender, continues to be a protected characteristic within equality legislation because of the biological reality of sex difference. Accurate information about male and female bodies helps empower children to defend their bodily integrity, to set boundaries and recognise abuse, and is also a prerequisite for the development of respectful, egalitarian relationships.

⁴³ See Department for Education (2020) *Plan your relationships, sex and health curriculum: information to help school leaders plan, develop and implement the new statutory curriculum*. Available at: <https://www.gov.uk/guidance/plan-your-relationships-sex-and-health-curriculum>

PART 2 – Fundamentalist Movements against Equality

Though a wide cross-section of organisations have made a clear evidence-based case for the introduction of RE/RSE in all schools to all children, this support is not universal. This section of the paper considers the nature of the opposition to these initiatives, looking not just at people who are unsure or apprehensive about this, but considering the agenda of the political networks and organisations which consciously oppose and campaign against the introduction of these measures. We look not just at the immediate objections these groups assert but also their wider political agenda.

We believe this demonstrates that the anti-RSE protests which have taken place in the UK cannot simply be characterised as an expression of the views of people who are ‘old fashioned’ or who have ‘really traditional values’. These campaigns against the introduction of RE/RSE reflect a bigger and much wider battleground on which religious fundamentalist groups are mobilising in many parts of the world.

Fundamentalist movements as global *political* movements

Nothing demonstrates the way Christian fundamentalists have been able to influence the political agenda more than the US under Donald Trump. While Trump was not himself an evangelical Christian, he recognised their mutual interest in a right-wing anti-equality agenda, and Christian fundamentalist groupings were crucial in providing an activist cadre to take the Republican Party message into communities as well as providing a source of ideas for domestic and foreign policy formulated during his presidency.⁴⁴ Trump’s authoritarian black-and-white politics, his hostility to science and his promotion of conspiracy theory, so prevalent in his administration’s approach to the Covid-19 pandemic, all mirror the contemporary form of religious fundamentalist politics and ideology across the globe. The same pattern of politics was also present in Brazil, where right-wing evangelical fundamentalists mobilised extensively in support of Jair Bolsonaro, who was elected President of Brazil in 2019. Central to his electoral alliance with fundamentalist Christians in Brazil was his ultra-conservative message on social issues concerning women’s and LGBT rights.⁴⁵ Bolsonaro also demonstrated the same hostility to science in his approach to the

⁴⁴ Under Bush, anti-abortion and anti-prostitution pledges were used as a tool of foreign policy and development agendas, in a manner that would be illegal in the US itself. Nothing demonstrates this more than the Global Gag rule which under Trump has been particularly harmful. The Report *Crisis in Care* by the International Women’s Health Coalition argues that ‘[A] previous version of the policy...actually led to increases in abortions in sub-Saharan African and Latin American countries... restricted access to contraceptive services—leading to increases in unplanned pregnancy and maternal mortality— and hampered HIV prevention efforts.’

https://31u5ac2nrwj6247cya153vw9-wpengine.netdna-ssl.com/wp-content/uploads/2019/06/IWHC_GGR_Report_2019-WEB_single_pg-2.pdf

⁴⁵ Smith, A. E. and Lloyd, R. (2018) ‘Top Pentecostal leaders supported the far right in Brazil’s presidential campaign’. Posted on VOX 8th October 2018. Available at: <https://www.vox.com/mischiefs-of-faction/2018/10/8/17950304/pentecostals-bolsonaro-brazil> [Accessed 15/4/20]

Covid pandemic, leading to a devastating level of deaths in Brazil.⁴⁶ As Amy Erica Smith noted, the alliance between religious fundamentalist movements and right-wing governments has taken place across the world:

Social conflict over ‘culture wars’ issues is on the rise in democracies across both the developed and the developing world. In Brazil and elsewhere, polarization has arisen from the reaction of religious conservatives to rapidly changing public policy and attitudes with respect to sexuality and the family. Politicians, citizens, and clergy debate the social roles of gays; the morality and legality of abortion; and the proper relationship between religious groups and the state. Moreover, these conflicts extend into electoral contests.⁴⁷

Michelle Goldberg has similarly pointed to the way ‘homosexuality has become *the* mobilising passion for the religious right’ in the US where LGBT communities and individuals become ‘living signifiers of decadence and corruption’.⁴⁸

The exact same language is in evidence in Iran, a government whose rulers literally claim their rule enacts the will of God. In 2016, Iran's Supreme Leader, Ayatollah Ali Khamenei spoke against the ‘flooding of ravaging moral decay’ by the West manifested by the legalization of homosexuality:

In various countries, they first legalized homosexuality...There is no worst form of moral degeneration than [homosexuality]... In the future...they will legalize incest and even worse. This is where the moral decay will lead us.⁴⁹

Iran continues to deal with the ‘moral decay’ of homosexuality by executing gay men for their sexual orientation and Iranian Government ministers have consistently defended this policy.⁵⁰ Alongside this is the brutal control of women’s sexuality. Human Rights Watch noted that ‘under Iran’s penal code, adultery has been described as a “crime against God” for both men

⁴⁶ <https://www.reuters.com/world/americas/brazilians-protest-president-bolsonaros-response-pandemic-2021-06-19/>

⁴⁷ Smith A.E (2019) ‘Religion and Brazilian Democracy: Mobilizing the People of God’. Posted to blog site of Amy Erica Smith on April 2019. Available at: <http://americasmith.org/religion-and-brazilian-democracy/> [Accessed 15/4/20]

⁴⁸ Goldberg, M. (2007) *Kingdom Coming: The Rise of Christian Nationalism*. W. W. Norton and Company. pp. 53-54.

⁴⁹ Outright International (2016) Iran’s Supreme Leader says ‘There is no worse form of moral degeneration than homosexuality’ posted to Outright International blog site on 27th Available at: <https://outrightinternational.org/content/irans-supreme-leader-says-there-no-worst-form-moral-degeneration-homosexuality> [Accessed 15/7/2020]

⁵⁰ In 2019 Iran’s Foreign Minister Mohammed Javad Zarif when asked about Iranian policy of executing gay men for their sexual orientation claimed: "Our society has moral principles. And we live according to these principles." See Walsh, A. (2019) ‘Iran defends execution of gay people’ posted to *Deutsche Welt* on 12th June 2019. Available at: <https://www.dw.com/en/iran-defends-execution-of-gay-people/a-49144899> [Accessed 15/7/2020]

and women. It is punishable by 100 lashes for unmarried men and women, but married offenders are sentenced to death by stoning'.⁵¹

Neither are these ideas limited to Christianity and Islam – in 2016, Jerusalem's Chief Rabbi Shlomo Amar described LGBT people as an 'abomination cult', claiming that the Torah obligates them to be 'put to death'.⁵² So while defenders of this view present their arguments with reference to the sanctity of the tenets of their particular faith, the arguments they make are almost identical to each other, showing the way religious fundamentalism represents a wider political movement developing across different religious contexts but with the same authoritarian anti-equality political agenda.

While they are not as influential in the UK as in many countries, religious fundamentalist movements are active in all major religions in the UK. Fundamentalist organisations globally share many features including their long-standing opposition to the new social movements. The 1960s is highly significant to religious fundamentalists because it was at this point that all of the landmark pieces of socially liberal legislation emerged and began to impact on society: male homosexuality ceased to be a criminal offence; divorce was made legal; equal pay for women was fought for and became law. These changes created the conditions for greater levels of personal freedom that have had a fundamental impact on social policy, law and people's rights and conceptions of themselves, and on the kind of society the UK has become.

It is precisely these sorts of legal and social equalities which religious fundamentalists see as epitomising everything that is wrong or 'sinful' about contemporary British society. Stephen Green, national director of *Christian Voice*, a leading Christian fundamentalist group in the UK, wrote in 2005 that 'Britain is a nation deep in sin...Nobody can deny that the last 50 years of legislation have turned us away from the laws of God. We say that God knows best and if we go away from God we're going to bring judgement upon ourselves'.⁵³ In other words, the fundamentalist political project seeks to consciously reverse the move toward the more accepting and tolerant society which took place in the 1960s and 1970s and return Britain to a 'moral and righteous' society.

The Birmingham protests

Part 1 of this Briefing Paper talked about the advent of multifaithism in the UK and how this gave religious fundamentalists a significant opening to present themselves as the people best suited to represent the interests – as defined by them – of a number of minority communities. This has given fundamentalist movements the confidence to organise and make demands on

⁵¹ Human Rights Watch (2010) 'Iran: Prevent Woman's Execution for Adultery' posted to *Human Rights Watch* on 7th July 2010. Available at: <https://www.hrw.org/news/2010/07/07/iran-prevent-womans-execution-adultery> [Accessed 15/7/2020]

⁵² Winer, S. (2019) 'Jerusalem chief rabbi: Gay people cannot be religious, shouldn't pretend to be' posted to *The Times of Israel* on 23rd July 2019. Available at: <https://www.timesofisrael.com/jerusalem-chief-rabbi-gay-people-arent-religious-should-cast-off-observance/> [Accessed 15/7/2020]

⁵³ Jefferies, S. (2005) 'The Moral Minority' posted on *The Guardian* on 11th January 2005. Available at: <https://www.theguardian.com/media/2005/jan/11/broadcasting.bbc1> [Accessed 1/6/2019]

the state and politicians for the last two decades. It is in this context that we need to understand the anti-equalities protests which took place in Muslim majority areas of inner-city Birmingham in opposition to the 'No Outsiders' teaching programme in 2019.

The most sustained protests took place outside Anderton Park School in Sparkhill which sought to introduce teaching on family diversity based on the 2010 Equality Act through the use of a series of children's books which showed the lives of different types of families, including those with gay and lesbian parents. Fundamentalist activists mobilised against this teaching by deliberately misrepresenting the work the schools were doing, claiming that children were being 'sexualised' by having access to these books. The presentation of these entirely age-appropriate books about family diversity as epitomising a global conspiracy to corrupt and 'sexualise' children typifies the shape of fundamentalist arguments. While their spokespeople talk in an apparently reasonable way about the way their religious needs are not being addressed, the basis upon which they have mobilised parents is through conscious misinformation. While the protest leader Shakeel Afsar does not have children at Anderton Park and is not a parent, he has claimed that RSE lessons at Anderton Park will see 'our children transformed into homosexuals'. He has built support by linking up with other fundamentalist activists from across the UK; Muslim fundamentalist Abdullah Bahm joined the Birmingham protests from Batley in West Yorkshire and described the teaching at Anderton Park school as 'all about promoting paedophilia'.⁵⁴ The protests have also been supported by fundamentalist groups in other religions. For instance, Stephen Green from Christian Voice, who previously spent much of his political energy attacking Islam⁵⁵, has now made common cause with the Anderton Park protestors⁵⁶. The protests are also being supported by ultra-orthodox Jewish fundamentalist groups.⁵⁷

On 23 March 2019 the protestors held a public meeting in Birmingham in Alum Rock using the slogan 'Education not Indoctrination – Education not Sexualisation', indicating again their

⁵⁴ Haynes, J. (2019) 'Shocking moment protestor points at Anderton Park School to falsely claim: "there are paedophiles in there"'. Posted to *Birmingham Live* website on 17th October 2019. Available at: <https://www.birminghammail.co.uk/news/midlands-news/shocking-moment-protester-points-anderton-17098180>

⁵⁵ Stephen Green has been a prominent supporter of the protests in Birmingham, despite earlier work objecting to the 'Islamicisation' of parts of the UK, such as Tower Hamlets and Bradford where he has written that 'the saddest thing about Islam is that no Muslim has any assurance of salvation, except as a Jihadist, and it is this belief that physical fighting in the cause of Allah is the highest calling that makes Islam so dangerous and implacable'. See Christian Voice (undated) 'What is Islam?' posted to *Christian Voice* website and available at: <https://web.archive.org/web/20080516055308/http://www.christianvoice.org.uk/islam.html> [Accessed 1/6/2019]

⁵⁶ See Stephen in *Brutal Britain* (undated) 'Andrew Moffat to Lead Birmingham Gay Pride' posted to *Christian Voice* website on 20th May. Available at: <https://www.christianvoice.org.uk/index.php/andrew-moffat-lead-birmingham-gay-pride/> [Accessed 1/6/2019]

⁵⁷ See Sugarman, D. (2019) 'To would-be Orthodox protestors against LGBT education: you will lose, and cause even more pain' posted to *The Jewish Chronicle* website on 7th August. Available at: <https://www.thejc.com/comment/comment/to-would-be-orthodox-protestors-against-lgbt-education-you-will-lose-1.487240> [Accessed 1/6/2019]

misrepresentation of the equalities work schools were doing. Below is the poster for the meeting:



Source: <https://www.facebook.com/photo.php?fbid=10157591670490931&set=p.10157591670490931&type=3>

We noted earlier that religious fundamentalist tendencies exist across different religious traditions and it is significant here that the bookstall for the conference was provided by Christian fundamentalist groups.⁵⁸



Source: Rhi Storer – <https://www.facebook.com/groups/2133515420062892> - 23/3/2019

⁵⁸ <https://www.facebook.com/groups/2133515420062892> [Accessed 23/3/2019].

This bookstall offered a series of mostly US-based Christian fundamentalist texts attacking LGBT communities. The main speaker at the event was Dr Kate Godfrey-Fausset, a Chartered Psychologist who runs a group called *Stop RSE*. The *Stop RSE* website lists its concerns about RSE as involving ‘the pushing of political ideologies by various sex education lobby groups into the classroom, the sexualisation of children and the harm being caused to children by exposing them to concepts that are developmentally inappropriate’.⁵⁹ Once again we see RSE presented in the form of a conspiracy to ‘sexualise and cause harm to children’. Dr Godfrey-Fausset is currently being investigated by Health Care Professions Council (HCPC) for the way she used her professional role as a platform to promote her extremely homophobic views and has presented the HCPC’s concern about her involvement with vulnerable young people uncertain about their sexual orientation as evidence of an ‘anti-Muslim witch hunt’ against her. This typifies the way religious fundamentalists present themselves as the authentic spokespeople of their religious community and present that group as under threat. While we accept that there is a clearly documented increase in racist violence towards Muslims⁶⁰, we would strongly contest the view that the cause of this is equalities initiatives. Indeed Godfrey-Fausset and others like her fan the flames of this by homogenising Muslims in ways that are unhelpful and unrepresentative of the interests of all Muslims.

In an interview, Godfrey-Fausset stated that the problem with No Outsiders and RSE was that it required ‘children from Muslim majority schools...to accept and celebrate different sexual orientation. This boils down to a form of indoctrination and erosion of our religious rights as Muslims, Christians and Jews to bring up our children in line with our religious beliefs’. Reiterating the themes which run through all fundamentalist arguments she went on to claim that ‘the traditional family is under assault and that this secular ideology behind the RSE programme is a war against morality’.⁶¹ What is less well-known about Godfrey Fausset is her support of the Iranian Government’s policies toward ‘the traditional family’. In a number of her writings and interviews she approvingly quotes Iran’s Supreme Leader, Ayatollah Ali Khamenei:

I will just read a couple of quotes from a book called *The Compassionate Family* by Ayatollah Khamenei. He says: ‘Why does the West expend so much effort to promote hedonism in Eastern countries in general and Muslim countries in particular. One reason is to shatter the family unit and weaken their cultures in order to dominate them’.

She goes on to claim that:

⁵⁹ <https://stoprse.com/index.php/what-is-rse/>

⁶⁰ TellMama (2019) ‘Hate crimes up 10% across England and Wales’ posted to *TellMama* website on 15th October. Available at: <https://tellmamauk.org/hate-crimes-up-10-per-cent-across-england-and-wales/>

⁶¹ 5pillars (2019) ‘Dr Kate Godfrey-Faussett: I’m the victim of a witch hunt against the Muslim community’ posted to *5pillars* website on 4th April 2019. Available at: <https://5pillarsuk.com/2019/04/04/dr-kate-godfrey-faussett-im-the-victim-of-a-witch-hunt-against-the-muslim-community/>

...when you are not answerable to God or family and you are only answerable to yourself the moral rot sets in a very deep way. So what can religion offer? For me, we have to return to traditional family values. I think the antidote...is to strengthen the bonds between husband and wife. We need to go back to very clearly defined male and female roles.⁶²

While religious fundamentalists like Godfrey-Fausset claim to be seeking nothing more than recognition of traditional religious values, their wider agenda is seen in their support for governments which implement the death penalty for blasphemy, which execute gay men for their sexual orientation and where extreme practices such as calling for rape victims to be punished for failing to get permission to have sex with the rapist are written into law. This is an authoritarian right-wing agenda which has little to do with recognition of the religious values of the vast majority of people. In the Birmingham context the reactionary nature of the protestors' demands was further demonstrated by the way protest organisers Shakeel Afsar and Amir Ahmed aligned themselves with the former *Sun* newspaper journalist and far-right activist Katie Hopkins; an individual who described recent immigrants to Britain as 'cockroaches'⁶³, and has also made racist slurs against London Mayor Sadiq Khan referring to London as 'Londonistan' (a disparaging reference to London's Muslim communities⁶⁴) until she was banned from the use of Twitter in June 2020 for violation of its rules on hateful conduct.

⁶² Abrar Islamic Foundation (2019) 'Modern civilisation: Addressing the moral rot' posted to the *Abrar Islamic Foundation* website on 26th July 2019. Available at:

<http://abraronline.net/english/index.php/2019/07/26/modern-civilisation-addressing-the-moral-rot-2/>

⁶³ itvNEWS (2015) 'Katie Hopkins compares migrants to 'cockroaches' and suggests using gunships to stop them crossing the Mediterranean' posted to *itvNEWS* website on 18th April 2015. Available at:

<https://www.itv.com/news/2015-04-18/katie-hopkins-compares-migrants-to-cockroaches-and-suggests-using-gunships-to-stop-them-crossing-the-mediterranean/>

⁶⁴ Rahim, Z. (2019) 'Trump uses racist Katie Hopkins tweet to attack Sadiq Khan' posted to *Independent* website on 15th June 2019. Available at: <https://www.independent.co.uk/news/world/americas/us-politics/donald-trump-sadiq-khan-tweet-london-mayor-stabbings-a8960476.html>



Source: <https://www.iambirmingham.co.uk/2019/06/04/katie-hopkins-joins-forces-with-leaders-of-birmingham-anti-lgbt-school-protests-on-eid/>

‘Respectable’ fundamentalist campaigning

While the Birmingham protests represented the actions of the most vocal religious fundamentalists, their tactic of withdrawing children from school and then demonstrating outside the school is rejected by most anti-RSE groups. Indeed, most opposition to RSE has been and will be expressed within the existing policy and consultation framework, even though these ‘moderate’ groups share the same ideology as the more ‘militant’ groups. For example, Christian groups in Nottinghamshire described RSE as a ‘war against morality’ and leafleted parents in their local area around this.⁶⁵ The Reverend Lynda Rose, a spokesperson for the UK branch of evangelical *Anglican Mainstream* group has expressed very similar sentiments to Kate Godfrey-Fausset.⁶⁶ In an interview with *Christian Today* in 2019 she argued that ‘the whole thrust of the RSE regulations is to promote and normalise LGBT values. It’s saying that sin is not sin and that this is actually good. It is an attack on Christian faith and it is an attack on children...Really, it’s just state-sponsored abuse.’⁶⁷ She has called on parents to write to their MPs and councillors to object to these proposals.

A similar approach is being taken by the group *SRE Islamic*, (formerly Islamic RSE) which began in East London. This group has been campaigning against all forms of sex education since 2008. It is led by Yusuf Patel, who was previously a member of the violent fundamentalist

⁶⁵ BBC news (2019) ‘Anti-relationship lesson leaflets branded “homophobic”’ posted to *BBC News* website on 19th June 2019. Available at: https://www.bbc.co.uk/news/uk-england-nottinghamshire-48679673?fbclid=IwAR3BUYzQyuXSPjQ_bLoEO4SQOCd3p7HIF2qBkzcdoRdpv7MqFkAQ96mcj3Y

⁶⁶ BBC News (2013) ‘Gay bishops: Bible “prohibits” homosexual relationships, says Anglican Mainstream’ posted to *BBC News* on 5th January 2013. Available at: <https://www.bbc.co.uk/news/av/uk-20919479/gay-bishops-bible-prohibits-homosexual-relationships-says-anglican-mainstream> [Accessed 1/7/2020]

⁶⁷ Christian Today (2019) ‘LGBT lessons in schools: the Rev Lynda Rose on why more Christian parents need to take a stand’ posted to *Parent Power* website on 20th October 2019. Available at: <https://parentpower.family/christian-wake-up-call/> [Accessed 1/6/2019]

group *Hizb ut-Tahrir*, an organisation which is banned for its violence in a number of countries.⁶⁸ At a public meeting in the London Borough of Newham (14/7/2019) Patel problematised the strategy of the Birmingham protestors and stated that ‘Birmingham protesters have taken the wrong strategy and gotten themselves into a difficult position as there appears to be no coming back from their position and it’s not a good idea to withdraw your children from school because of the impact on children’s education.’ Instead, he advocated an approach that involves nominating local Muslims as school governors and equipping both parents and governors to apply pressure on school staff to ensure that the content they deliver is in line with fundamentalist Muslim beliefs and values. *SREIslamic* has been actively galvanising conservative Muslim parents to oppose relationships and sex education for over a decade and central to their arguments is the insistence that anyone who is a Muslim cannot also be LGBT. In a series of videos on the group’s website Patel argues that Muslims need to be clear that homosexuality is not acceptable in Islam and that Muslims have ‘different values’. He describes Muslims as having a ‘duty to defend their religious principles’ and calls on people to join their local *SREIslamic* group ‘before it is too late’.⁶⁹ Their opposition to RSE is part of a continuum of campaigns against sexual and bodily autonomy and they are not at all averse to aggressive street protest.

This group has previously joined forces with Christian fundamentalists, the Christian Peoples Alliance (CPA), to oppose reproductive rights through vociferous demonstrations outside the offices of abortion providers like the British Pregnancy Advisory Service (BPAS) in Stratford.⁷⁰ As with their campaign against RSE, these anti-abortion demonstrations perpetuated scandal and lies and, like the Birmingham protests against RSE, made use of evocative images. For instance, they claimed that BPAS were throwing unborn babies (foetuses) into local neighbourhood bins.⁷¹ At the Newham meeting in July 2019, when Yusuf Patel was asked if he believed in equality, he replied: ‘Islam is not about equality, it never has been, it is about respect and coexistence but there is a very clear distinction between believers and non-believers and you cannot be a Muslim if you are LGBT.’

Central to the entirety of religious fundamentalist opposition to RSE is a deliberate misrepresentation of what RSE actually involves, and nothing epitomises this more than the claim by the Christian fundamentalist *SchoolGate* campaign in the London Borough of

⁶⁸ Green, L. (2011) ‘Keep the faith: Should Muslim children receive sex education?’ posted to *The Independent* website on 23rd October 2011. Available at: <https://www.independent.co.uk/news/education/schools/keep-the-faith-should-muslim-children-receive-sex-education-1756750.html>

⁶⁹ These views are presented in a series of videos on the *SREIslamic* website, which is available at: <https://www.sreislamic.org/about-sre-islamic/>

⁷⁰ Dhaliwal, S. (2017) ‘Christian Fundamentalists in the UK: Moral Swords of Justice or Moral Crusaders?’ *Feminist Dissent*, (2), pp. 118-147. Available at: <https://journals.warwick.ac.uk/index.php/feministdissent/article/view/66>

⁷¹ Dhaliwal, S. (2017) ‘Christian Fundamentalists in the UK: Moral Swords of Justice or Moral Crusaders?’ *Feminist Dissent*, (2), pp. 118-147. Available at: <https://journals.warwick.ac.uk/index.php/feministdissent/article/view/66>

Newham that RSE involves ‘encouraging primary school children to masturbate’.⁷² Once confronted with the demonstrable falsity of this, the *SchoolGate* campaign withdrew this claim, but their website continues to characterise RSE as a ‘war on children’ whose intention is to get them ‘hooked on sex’.⁷³

⁷² Nye, C. and Melley, J. (2019) ‘Protest leaflets claim relationship education teaches children masturbation’ posted to *BBC News* on 30th August 2019. Available at: <https://www.bbc.co.uk/news/education-49497837>

⁷³ <https://www.schoolgatecampaign.org/>

PART 3 - In Defence of Equality

The previous section discussed the fact that defenders of the protests against the teaching of RSE, such as the No Outsiders programme at Parkfield School, claimed that the teaching of RSE conflicts with their religious beliefs, attempting to mount a rights-based argument *against* RSE. Informed by legal advice and analysis, this section sets out below an evidence-based argument for the teaching of RSE on the grounds of equality, rights, and freedoms. We provide clear guidance to support school governors, parents, teachers, and other interested parties in being able to establish how the delivery of RSE is not only lawful but is in fact necessary to teach school pupils the principles that underpin the Equality Act 2010 and more generally to advance the interest of equality and human rights.

A hierarchy of equality rights?

At the heart of the fundamentalist protests against the teaching of RSE is the charge that the state has in effect created a hierarchy of rights by promoting the rights of sexual minorities over the right to hold and manifest religion. Although, as shown above, fundamentalist campaigns against RSE are riddled with deliberate misinformation, these forces argue that the lessons on RE/RSE are essentially promoting homosexuality and that they impact directly on their right to religious belief. They claim that the state has no business in interfering with religious values or in seeking to ‘indoctrinate’ or influence these values through its institutions.

There are two key pieces of relevant legislation here: the Human Rights Act 1998 and the Equality Act 2010 which introduced the Public Sector Equality Duty (PSED). The Human Rights Act incorporates the European Convention of Human Rights (ECHR) and gives effect to the rights and freedoms guaranteed under the ECHR and to which everyone is entitled. Some of these rights are absolute and others qualified which means that they come with limitations and restrictions. The Act requires all public bodies to carry out public functions in ways that respect and protect human rights and to ensure that new laws are compatible with Convention rights. For the purposes of this briefing, the key Convention rights that are implicated are Article 9: Freedom of thought, belief and religion and Article 14: Protection from discrimination in respect of these rights and freedoms. In addition, Protocol 1, Article 2 of the ECHR: Right to education is also engaged.

In 2010, following decades of struggles for equality, the Labour Government brought in the Equality Act 2010 which forms the main single equality framework of anti-discrimination legislation in the UK today. The Act also enshrined the PSED which is a single Equality Duty that covers all the nine protected characteristics: sex, age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation. It places a legal obligation on all public bodies and voluntary organisations carrying out a public function to ensure that, in the exercise of their functions, they give due regard to the need to a) eliminate

unlawful discrimination, harassment and victimisation and b) advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.

Academics such as John Holmwood⁷⁴ have voiced strong support for the anti-RSE protests by claiming that the teaching of RSE contravenes the Equality Act 2010. At a meeting in Birmingham in July 2019⁷⁵ organised by the anti-RSE protesters, Holmwood referred to the State's 'imposition of liberal values' over the right to religious expression; a view that he has often expressed elsewhere.⁷⁶ A fundamentalist homophobic tirade was unleashed at this meeting, but rather than challenge this, Holmwood attempted to legitimise it by purporting to provide a legal justification against the teaching of RSE. He claimed that under the Act, all groups with protected characteristics carry equal weight and that it is unlawful for the government to prioritise LGBT rights above the rights of Muslims to manifest their religious beliefs. He argued that any such attempt to create a hierarchy of collective equality rights amounts to unlawful discrimination and Islamophobia in a context where Muslims are demonised for holding conservative beliefs that are in fact also a part of British life and central to the government's integration agenda.

A variation of this argument is that under the ECHR, parents have the right to educate their children in ways that accord with their religious and moral convictions. This is a manifestly disingenuous stance for a number of reasons:

- a) it homogenises all Muslims as religiously conservative with beliefs that are not compatible with principles of equality;
- b) makes a virtue of ultra-conservatism and illiberalism by falsely claiming that it mirrors an unspoken conservative consensus in the wider society;
- c) uses equality and human rights laws to promote fundamentalist propaganda that actively opposes universal values of equality, diversity and democratic participation, and

⁷⁴ John Holmwood was also an 'expert' witness for the defendant Shakeel Afsar and others in the High Court case concerning Birmingham Council's application to restrict street protests and prohibit online abuse against teachers at Anderton Park Infant and Junior School in Birmingham in 2019. *Birmingham CC v Afsar* (No 3) (2019) EWHC 3217 (QB).

⁷⁵ On 29th July 2019, members of *Feminist Dissent* attended a public meeting in Small Heath, Birmingham, at which the key anti-RSE protesters, a representative of the group Inclusive Mosques Initiatives and John Holmwood spoke. The meeting was entitled Together for Equality in Birmingham but in reality was largely attended by the protesters and their supporters, many of whom voiced deeply homophobic views that dominated the discussion and remained unchallenged by Holmwood amongst others.

⁷⁶ See for instance

Holmwood, J. (2019) 'Fundamental British Values, Religion and Inequalities' posted to *Discover Society* on 4th September 2019. Available at: <https://discoversociety.org/2019/09/04/fundamental-british-values-religion-and-inequalities/>

and

Holmwood, J. (2019) 'Rapid Response: Religion, British Values and Equalities Teaching in the Context of Prevent' posted to *Discover Society* on 20th March 2019. Available at: <https://discoversociety.org/2019/03/20/rapid-response-religion-british-values-and-equalities-teaching/>

- d) it is a fundamental misrepresentation of the government's obligations under the Equality Act and international human rights law as we show below.

The teaching of RE/RSE will not amount to unlawful discrimination or a violation of rights under equality or human rights laws. Below we share more detail about equality and human rights law and the teaching of RE/RSE.

RE/RSE, Equality, and Human Rights Law

Leading discrimination lawyers in the UK have examined in detail whether or not the teaching of RE/RSE is likely to result in either discrimination on the grounds of religion under the Equality Act 2010, or a potential breach of the Human Rights Act 1998.⁷⁷ The legal advice is that, contrary to the claims of fundamentalists, the teaching of RSE in accordance with the government's guidance on RE/RSE⁷⁸ is **likely to be consistent** with both the Equality Act and the Human Rights Act. They make the following key legal observations:

1. The legal framework has two important features that address concerns that the teaching of RSE amounts to ideological indoctrination or discrimination:
 - 1.1. This first feature is that the teaching about sex and contraception or LGBT relationships is limited in scope and focuses only on the key facts, the legal framework and the importance of tolerance and respect. The statutory guidance accompanying this, for example, makes clear that the curriculum including teaching about sex, sexual health, contraception and sexuality, should be taught in an age-appropriate, sensitive and inclusive way that leads to a clear awareness of rights and responsibilities regarding citizenship and equality. This approach is also reinforced by the Department for Education's non-statutory guidance dated 2014 which states that schools are not required to promote or endorse legal options such as same-sex marriage but simply to teach in a factual way that enables understanding and respect of different relationships in society and how the law applies to them.⁷⁹ It is to be noted that although the guidance is non-statutory it must be followed unless there is good reason to depart from it.
 - 1.2. The second feature of the framework is that it consistently emphasises the need for schools to develop a policy on RSE in consultation with parents and to include in any teaching the need to respect the religious convictions of pupils and parents. The RSE regulations allow for the option of limited parental withdrawal of secondary school

⁷⁷ A detailed and comprehensive legal advice was prepared by Karen Monaghan QC and Eleanor Mitchell of Matrix Chambers on 25 January 2020 at the instruction of Southall Black Sisters. This advice specifically references the government's statutory RSE guidance which covers RSE teaching in secondary schools including sex education and RE teaching in primary schools which includes the teaching of diverse family forms.

⁷⁸ The title of the government's statutory guidance on RE/RSE is: *Relationships Education, Relationships and Sex Education (RSE) and Health Education Guidance*. It covers RSE teaching in secondary schools including sex education and RE teaching in primary schools which includes the teaching of diverse family forms.

⁷⁹ This general approach is reinforced by the DfE's non-statutory guidance entitled: *The Equality Act 2010 and Schools: Departmental advice for school leaders, school staff, governing bodies and local authorities* (May 2014)

pupils under the age of 16 from sex education classes. Withdrawal from sex education for primary school pupils is not limited since it is not compulsory. The statutory guidance also requires schools to only teach the law and the Equality Act as it applies to relationships; to publish a written policy in consultation with parents and to provide information on its content and how and by whom it will be taught. The aim is to ensure that a ‘balanced’ debate takes place about issues that are seen to be contentious.

2. Importantly, the content of the curriculum and ‘anything done in connection with’ it, falls outside the scope of the Equality Act and therefore cannot amount to unlawful discrimination either in relation to pupils or parents. This includes the RSE curriculum. This interpretation is supported by case law (*Birmingham CC v Afsar*)⁸⁰ concerning the injunction proceedings against protests outside Anderton Park Primary School. In that case, the Court clearly said that the teaching complained about was concerned with the content of the curriculum and therefore fell outside the scope of the Equality Act. In any event, in relation to:
 - 2.1. *Pupils*: As long as the teaching of RSE is delivered in a non-detrimental manner to pupils who hold religious views, it will not amount to discrimination. This is explained further below in respect of both direct and indirect discrimination.
 - 2.2. *Parents*: The Equality Act specifies that education is a service that is delivered to pupils and not parents. The *Afsar* case reiterated the principle that the delivery of education by the state (as opposed to an independent school) to a child pursuant to a statutory duty does not amount to the provision of a service to the child’s parents. However, even if it could be said that education is a service to parents, the content of the curriculum is not about the way in which education is delivered and so falls outside the scope of the Equality Act.
3. The teaching of RE/RSE including any content which might conflict with certain religious values will not amount to *direct* discrimination because it does not of itself amount to less favourable treatment to those pupils holding religious beliefs. This is because the same content is delivered across the board which means that the treatment of all pupils will be the same.
4. The teaching of the RE/RSE curriculum will not amount to *indirect discrimination* against pupils or parents:
 - 4.1. *Pupils*: There is no evidence that pupils with religious beliefs will be put at a ‘disadvantage’ if RE/RSE is taught in accordance with the guidance. Although some pupils may be conflicted or distressed, it is unlikely that this will of itself amount to a particular disadvantage. In any event, the teaching of RE/RSE in accordance with the guidance on RE/RSE represents a proportionate means of achieving wider legitimate

⁸⁰ Birmingham CC v Afsar (No 3) (2019) EWHC 3217 (QB). Available at: <https://www.judiciary.uk/wp-content/uploads/2019/11/Birmingham-CC-v-Afsar-No-3-2019-EWHC-3217-QB-Final.pdf>

aims therefore justifying any indirect discrimination. For example, if a school acts in accordance with the RE/RSE guidance to pursue the wider aim of equipping pupils to take their place in society; to develop the emotional resilience and tools needed to combat discrimination, harassment and prejudice, and to foster a safe environment and good relations between different groups, it is likely to be accepted as a valid and proportionate means of achieving that aim.

4.2. *Parents:* For the reasons set out above, that parents are not being provided with education nor receiving a service, the teaching of RE/RSE will not result in indirect discrimination of parents. In addition, in the event that there was any scope to argue that parents were having a potentially discriminatory practice applied to them, it would be justified if in pursuit of the wider stated aims.

5. Schools are also required to comply with the PSED and to assess the impact of their decisions on different groups sharing a protected characteristic. This means having ‘due regard’, to the three statutory equality needs or objectives – the need to eliminate discrimination, harassment and victimisation; the need to advance equality of opportunity and the need to foster good relations – in the course of making decisions that affect those groups. In February 2019, the Department for Education (DfE) carried out an equality impact assessment in relation to the teaching of RSE to meet its duty to give ‘due regard’ to its impact on those holding religious beliefs in schools. In doing so, it acknowledged a potential conflict with religious groups. But the DfE balanced the potential conflict by also recognising the wider potential of RE/RSE teaching to advance equality of opportunity for young people and foster better integration and relationships between young people of faith and of no faith, including those from LGBT backgrounds. Schools would be required to conduct a similar balancing exercise, which if properly done, would not amount to a breach of the PSED.
6. Article 9 ECHR sets out guarantees on the right to ‘freedom of thought, conscience and religion’ but this is a qualified right subject to laws and limitations that may be necessary in a democratic society such as the interest of public safety and the protection of the rights and freedoms of others. The teaching of RE/RSE in accordance with the statutory guidance is unlikely to involve any interference with the religious freedom guaranteed by Article 9 since it does not impede the ability of pupils to hold religious beliefs nor prevent them from manifesting those beliefs as it does not involve attempts to dictate their beliefs or take coercive steps to make them change their beliefs. In any case, any interference will be deemed to be legitimate to protect the rights and freedoms of the others, in this case, LGBT groups and to promote equality, understanding and tolerance.
7. For the same reasons, it is not likely to amount to discrimination under Article 14 ECHR which is concerned with the enjoyment of the fundamental rights and freedoms set out in the ECHR without discrimination on any ground including sex, race, colour, religion, age, national origin. The key question is whether the content of RE/RSE teaching including its

prejudicial impact on pupils or parents with religious beliefs has an ‘objective and reasonable justification’. As with the Equality Act, this requires a careful balancing exercise between the means employed and the wider aim that is being pursued. Provided that the teaching is carried out in accordance with the RE/RSE guidance, such teaching is likely to be compatible with Article 14.

8. The teaching of RE/RSE is also unlikely to entail a breach of Article 2 of Protocol 1 to the ECHR (concerning the right to education) which requires states to also respect the right of parents to ensure that such education is in conformity with their own religious and philosophical beliefs. However, the right to education is not a free-standing right; what it essentially refers to is the right to access education and not the content of education. The Article obliges the state to teach RE/RSE in an objective, critical and pluralistic manner and to refrain from pursuing the aim of indoctrination. It also emphasises that this does not entail ‘a right not to be exposed to convictions contrary to one’s own’. This interpretation is backed by considerable European case law.

For all these reasons, the legal advice is that the teaching of RE/RSE in accordance with the government’s guidance on RE/RSE is likely to be consistent with both the Equality Act and the Human Rights Act.

Finally, any discussion on equality and human rights law will be incomplete without a discussion on the rights of the child to education and to a range of social, cultural, economic and political rights set out in the United Nations Convention on the Rights of the Child (UNCRC).

Protecting the rights of the child

Throughout the public debate on RE/RSE, there has been little or no attention paid to religion and education from a children’s rights perspective. Current government guidance on education is still heavily balanced in favour of parental rights rather than the ‘best interest’ of the child as set out in the UNCRC.

This is why the parental right of withdrawal from sex education – a central plank of government education policy – remains problematic, since it forms the basis of fundamentalist opposition to RE/RSE and thwarts the government’s stated wider and legitimate aims: to prevent sexual abuse and harm; foster good relationships; and teach skills of citizenship and democratic participation. The National Secular Society, for instance, points to Article 19 of the UNCRC which requires the government to take ‘all measures’ including ‘educational’ measures, to ‘protect the child against all forms of physical or mental violence, injury or abuse (...) including sexual violence’. International human rights case law⁸¹ is also instructive on this point. It makes clear that unless RE/RSE lessons pursue an aim of

⁸¹ A.R. and L.R. v. Switzerland (application no. 22338/15) the European Court of Human Rights.

indoctrination, enshrining a right of parental withdrawal is not necessary to protect parental rights or religious freedom.

The campaigning group *End Violence Against Women* goes further and states that the withdrawal of any child (particularly girls who are disproportionately impacted) from sex education may also be a child protection concern.⁸² We would argue that, in order to safeguard women and girls in particular, and their rights relating to consent, equality and bodily autonomy, RE/RSE lessons also need to pay sufficient regard to sex as a protected characteristic in the current equality legislation.

The UNCRC incorporates a broad range of rights to which children must have access if they are to flourish, gain wider knowledge, express opinions and reach their potential. This means guaranteeing the right to education and to the quality of the content of education. The government's failure to give explicit expression to children's right to education in law in ways that conform to human rights principles smacks of compromises that the state is willing to make with religious leaderships.

⁸² End Violence Against Women Coalition (2018) *Submission to Government Consultation on the proposed Relationships Education (RE), Relationships & Sex Education (RSE) & Health Education (HE) Guidance for Schools in England*. October 2018. Available at: <https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/EVAW-Coalition-Response-to-RSE-Guidance-Consultation-DRAFT-FOR-WEB-OCT-2018.pdf>

Conclusion and Recommendations

The claim that acknowledging the rights of LGBT communities represents ‘indoctrination’ and is part of a ‘war against morality’ may strike some people as simply bizarre. However, at a deeper level we need to understand how dangerously authoritarian the fundamentalist message is. Fundamentalist claims are not simply backward or irrational as these views are promoted sincerely, even if the individuals involved are perfectly happy to promote deliberate falsehoods about RE/RSE as a means of mobilising their religious constituencies. If their campaigns are allowed to prevail, what we will see is a major narrowing of the curriculum of schools whose express purpose it should be to open up children’s educational horizons, with a particularly detrimental impact on the education and the opportunities available to girls. By rejecting engagement with important changes taking place within the diverse communities in which people live across the UK, these campaigns will damage the educational opportunities for all children. More seriously, in the case of LGBT people within those communities, the impact of their approaches will be to undermine LGBT people’s capacity for living in happy and fulfilling relationships. Indeed, what these groups explicitly want to achieve is the end of increasing public acceptance and visibility of lesbian and gay men and make this once again something that is hidden and shameful. Fundamentalists are actively involved in undermining intellectual, bodily and sexual autonomy by pushing against rights and equalities that have been long fought for by a range of ordinary people and community organisations. They want to undermine women’s rights to birth control and end public funding for terminations. They want to reduce women’s capacity to escape family violence. They want to reduce women’s independence across the board as they see this as ‘weakening the family’ and causing society to become ‘immoral’. Their actions make it harder to challenge the sexual abuse of children that has taken place in unaccountable religious institutions. The world they believe in is a world of inequality and it is on this basis that they oppose RE and RSE. It is in light of this that we wholeheartedly support the implementation of RE, RSE and HE teaching across all schools in the UK and we put forward the following recommendations for government, schools, and their regulatory bodies.

Recommendations

1. The government must uphold and promote non-discrimination and equality principles in all schools in accordance with the Equality Act 2010, the Human Rights Act 1998 and other international human rights laws and standards to enable all children to flourish and develop their full potential and participate in society as citizens.
2. The government must advance the interest of equality by centring the rights of all children and guaranteeing access to a full and varied education including access to relationship and sex education.
3. Children’s rights to education should be underpinned by a rights-based approach to education rather than an approach that is compromised by religious or cultural

sensibilities that seek to limit the right of all children to access education in its broadest sense.

4. RSE teaching should be made compulsory in all schools and taught in accordance with equality and human rights law in an age-appropriate way to all children regardless of their backgrounds. Particular attention must be paid to the promotion of equality between the sexes and adherence to the requirements of the Istanbul Convention on combatting violence against women and girls which the government has committed to ratifying.
5. RSE content must form a core rather than a discretionary component of the national curriculum delivered through fixed sessions and monitored by Ofsted. The content should be decided by a group of experts with backgrounds in education and in promoting equality and upholding human rights principles, especially in relation to gender equality within minority communities.
6. Schools should seek to consult a range of groups and stakeholders within minority communities including women, sexual minorities and other sub-groups who are also members of minority communities. Religious or faith-based organisations and groups should not be privileged or assumed to be representative of community needs and values.
7. The right of parents to withdraw children from sex and relationships education must be abolished. The right to freedom of expression, to be safe from violence, to enjoy a healthy childhood and to a full and equal education for all children must be fully protected.
8. The teaching of diverse family forms must form an essential part of the RE/RSE curriculum so that schools can foster a culture in which all children feel valued and can develop a sense of self-worth.
9. Schools and their regulatory bodies must have greater awareness of how conservative and fundamentalist religious forces seek to control educational content in order to curtail the right of all children to have equal access to knowledge and information. Particular attention must be paid to demands that restrict children's and women/girls' right to access information that promotes healthy relationships, intellectual, sexual and bodily autonomy.

About Feminist Dissent

Feminist Dissent is a collective of feminist academics, activists and writers that have come together to share analysis and insights on the nature of resurgent fundamentalism in all religions and its relationship to sex and gender and other socio-political issues. Through the production of a journal and related activities, we explore the rise and impact of all religious fundamentalist movements on civil liberties, freedom of expression, dissent, the rights of women, sexual and religious minorities, anti-racist struggles and human rights and freedoms.¹ Many members of *Feminist Dissent* have individually and collectively campaigned against attempts by fundamentalist groups to impose their agenda on schools. As far back as 1991, *Southall Black Sisters* campaigned against the take-over of local schools in Southall by Sikh fundamentalists who tried to use the Education Reform Act 1988 to opt out of local authority control. Using the rhetoric of 'parent power' their aim was to take over existing state schools and change their secular ethos into one that was more aligned to Sikh fundamentalist values.² They were eventually defeated by a concerted campaign involving teachers, community activists and Sikh parents who recognised that the real agenda was to monopolise community resources and gain power and control over women and girls in particular. Also, some of us were formerly involved with *Women Against Fundamentalism* where we raised concerns about fundamentalist incursions within mainstream education whose aim was to institutionalise and normalise gender inequality within schools. We are particularly concerned about the way demands for the accommodation of religious values, exemptions from equality laws and extended public funding for faith-based schooling have allowed fundamentalists to gain a strong foothold in the education sphere in order to undermine the equality principle.³

¹ See: <https://feministdissent.org/>

² Sahgal, G. & Yuval-Davis, N. (1992) *Refusing Holy Orders* London, Virago Press.

³ Dhaliwal, S. & Yuval-Davis, N. (2014) *Women Against Fundamentalism: Stories of Dissent and Solidarity* London, Lawrence & Wishart.