



## Ymateb i Ymgynghoriad / Consultation Response

**Date / Dyddiad: 28<sup>th</sup> February 2022**

**Subject / Pwnc: Peer on peer harassment among learners**

### **Background information about the Children's Commissioner for Wales**

The Children's Commissioner for Wales' principal aim is to safeguard and promote the rights and welfare of children. In exercising their functions, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner's remit covers all areas of the devolved powers of Senedd Cymru that affect children's rights and welfare.

The UNCRC is an international human rights treaty that applies to all children and young people up to the age of 18. The Welsh Government has adopted the UNCRC as the basis of all policy making for children and young people and the Rights of Children and Young Persons (Wales) Measure 2011 places a duty on Welsh Ministers, in exercising their functions, to have 'due regard' to the UNCRC.

This response is not confidential.

### **Introduction**

During my seven year term as Children's Commissioner for Wales, young people have repeatedly told me that they see and experience sexual harassment and that better education about relationships and sexuality is needed to prevent this. Young people's voices and experiences must be central to this discussion, and here are some quotes from members of my young people's advisory panel on this topic:

*"I personally think younger years need to be taught on sexual health e.g. year seven because in my school we weren't taught about it until year nine but by then it was too late because I heard numerous stories from friends who've experienced sexual harassment which otherwise would've been avoided if we were educating in the younger school years."*

*"I think starting from a young age is really important - not necessarily sexual health, but about respecting everyone irrespective of gender/sexual education. By exposing children to these discussions early on they will grow up understanding the importance of respect and consent."*

*“my friend recently came out as gay and has been scared to come out due to hate that he might receive in our school. An example of hate that he’s received was from a boy in our year, and the boy went on to call him the F-slur and proceeded to call him something racist. Nobody in our school is ever taught more about LGBTQ+ and because of this, a lot of people within my school do not see how hurtful their comments are, it’s so disappointing.”*

*“We honestly do more days about fire safety and smoking than this.”*

*“I didn’t know what the LGBTQ was until I asked my friends”*

Given these type of experiences, the prevalence of peer sexual harassment in education settings shown by Estyn’s recent review<sup>1</sup> is highly concerning, but sadly not surprising. My lack of surprise at the findings has been shared by many other adult professionals who work with young people. During my seven year term as Commissioner, young people have consistently told me the following:

- That RSE under the current curriculum is insufficient and poor quality, and is sometimes completely absent;
- That identity-based bullying is prevalent and that this includes gender based bullying and bullying of LGBTQ+ children and young people (this is detailed in my 2017 report into bullying<sup>2</sup> and my 2019 report into cyberbullying<sup>3</sup>);
- That describing some experiences as ‘bullying’ dismisses their seriousness, particularly where language such as ‘harassment’ or ‘abuse’ would describe equivalent behaviour when experienced by adults;
- That school staff, school leaders and other adults do not always respond consistently to incidents of peer sexual harassment, and sometimes incidences can be dismissed entirely;
- That whole school culture can be inconsistent with gender equity, with staff using gender stereotypes to describe behaviour or set expectations;
- That such gender stereotypes are sometimes used by staff to dismiss peer-harassment, with messages such as, ‘boys will be boys’;
- And linked to the above, that girls in particular can experience high levels of scrutiny in relation to their bodies and appearance, with a great deal of focus on the length of their skirts, but also in relation to other aspects of appearance such as hair and make-up. I see this also reflected in media reporting around school uniform, and I include recent examples from Wales Online<sup>4</sup>, and the BBC<sup>5</sup> as a reference.

All of the above observations are consistent with the findings of Estyn’s review. But it is important to note, as noted by Estyn, that the experiences described here by children and young people reflect wider culture and society. We must ensure that young people themselves are not inordinately condemned or demonised for peer-harassment. We must also ensure that we do not focus unwarranted condemnation on teachers or education settings.

Instead, it is my hope that Estyn’s review instigates a step-change, whereby policy and approaches at a national, local and setting level take every measure to prevent and suitably respond to peer sexual harassment. This is a

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<sup>1</sup> [We don’t tell our teachers - Experiences of peer-on-peer sexual harassment among secondary school pupils in Wales | Estyn \(gov.wales\)](#)

<sup>2</sup> [Sams-Story.pdf \(childcomwales.org.uk\)](#)

<sup>3</sup> [Don't Worry, I'm here for you: Children's experiences of cyberbullying in Wales - Children’s Commissioner for Wales \(childcomwales.org.uk\)](#)

<sup>4</sup> [These are the different rules on skirts worn in schools across Wales - Wales Online](#)

<sup>5</sup> [School skirts ban: St Martin's in Caerphilly changes uniform - BBC News](#)

matter of children's human rights, and it is incumbent on Government, and on educational professionals, to ensure this step-change in order to uphold children's rights under the UNCRC. Children and young people in education settings should be experiencing their human rights, which include their rights to:

- non-discrimination (Article 2);
- active participation in decisions (Article 12);
- the ability to join groups (Article 15);
- privacy (Article 16)
- accurate information (Articles 13 and 17);
- safety and protection from harm (Articles 19, 34, 46);
- an holistic education (Article 29);
- active participation in culture, arts, leisure and sports (Article 31).

A culture that includes frequent or unchallenged peer sexual harassment is not a culture in which these rights can be realised. This is an issue that has clear equalities impacts and that extends beyond the school; it can affect young people on school transport, walking home, at social or youth group settings, in their families, in their communities and significantly in online contexts. However, within education settings stereotypes can be challenged, incidents can lead to teachable moments, and young people can be empowered with a full understanding of their rights.

At a national level, there are very clear ways that this step-change can be supported, and that young people's experience of these rights can be better secured. Some of these measures are already underway, and several of these I have called for strongly and repeatedly. It is these solutions that I focus on in the remainder of this response. In summary these areas are:

- The need to ensure that the RSE Code and Guidance can be effectively delivered. Extensive and in-depth **professional learning** across the whole education sector is necessary to achieve the step-change required in setting-level curriculum design and pedagogy. Without this RSE cannot meet the needs of children and young people, and the aspirations reflected in the Curriculum and Assessment (Wales) Act 2021, and the Code and Guidance itself, will not be achieved.
- The need to ensure a **rights-based wider school culture** with a whole school approach that is consistent with the principles of the RSE guidance. This should include the development of specific advice for how settings support trans children and young people, a strengthening of existent anti-bullying guidance, and a consideration of how settings ensure gender equity across their practice, including through their uniform requirements and how these are communicated to young people.
- Parallel to these previous elements, the need to **ensure children and young people are listened to**. Their views and experiences, including their own ideas for solutions to this issue, need to be put at the centre of approaches in settings, and need to be central to national approaches to professional learning, inspection and future guidance.
- Wider system culture. Relationships and Sexuality Education is a key route by which peer harassment can be addressed and prevented, but this is not an issue solely for education settings and education professionals. Schools need support from their families, communities, and wider public services. I commend particularly the role of the School Police Support Programme, but also note the possibility of additional support, including from youth work services, the third sector, and health. In addition there is an ongoing need for Welsh Government to create and make available high quality information about RSE for families and communities.

## **Relationships and Sexuality Education (RSE)**

The inclusion of provision for mandatory RSE within the Curriculum and Assessment (Wales) Act 2021 is a principle with strong international support. The 2017 European Network of Ombudspersons for Children (ENOC) position statement on Comprehensive Relationship and Sexuality Education<sup>6</sup>, states that all children and young people have the right to high quality, holistic and inclusive education about sexuality and relationships. This echoes the 2016 Concluding Observations of the UN Committee on the Rights of the Child.<sup>7</sup> In response to the Committee's concerns about the variability of relationships and sexuality education, and the lack of accurate information for young people (Section 63b) the Committee recommends State Parties ensure education around relationships and sexuality is mandatory within the school curriculum (Section 64b). A list of international binding and non-binding legal instruments underpinning the requirement to deliver high quality RSE are listed on p.1 of the ENOC 2017 statement<sup>8</sup>. UNESCO's evidence-informed approach<sup>9</sup> also explains how human rights are enhanced by effective RSE and effective RSE is underpinned by human rights.

In Wales, the inclusion of RSE is compatible with the commitment in Wales to the UNCRC guaranteed by the Rights of Children and Young Persons (Wales) Measure 2011. In a policy context in Wales this develops the inclusion of Sex and Relationships education in Successful Futures<sup>10</sup>, and Objective 2 in the Welsh Government's National Strategy on Violence against Women, Domestic Abuse and Sexual Violence (2016-2021)<sup>11</sup> which states that the new curriculum must include the importance of safe, equal and healthy relationships.

In light of this context and also in light of the strong messages I have received from children and young people, I have strongly welcomed the RSE statutory Code and Guidance<sup>12</sup>, as passed by Senedd at the end of 2021. My office was a member of the SRE Expert panel recommending in 2017 that new statutory RSE guidance was required<sup>13</sup> and I subsequently reinforced the recommendations of the SRE Expert Panel in my 2017-18 Annual Report.<sup>14</sup> My office then supported the development of this guidance through observer membership of Welsh Government's working group.

### **Professional Learning and an Expert Network**

In my 2020-21 Annual Report<sup>15</sup> I have again made recommendations in relation to RSE. In full, my recommendation is that,

*Welsh Government must develop and fund a national offer for high quality professional learning so that by September 2022 each setting in Wales has benefitted from this professional learning, and has identified a specialist RSE lead practitioner who can oversee a whole-setting approach to RSE that is integrated with the curriculum.*

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<sup>6</sup> <http://enoc.eu/wp-content/uploads/2017/10/ENOC-position-statement-on-CRSE.pdf>

<sup>7</sup> Committee on the Rights of the Child, Concluding Observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, CRC/C/GBR/CO/5, 03/06/16, available at:

[http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/GBR/CRC\\_C\\_GBR\\_CO\\_5\\_24195\\_E.docx](http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/GBR/CRC_C_GBR_CO_5_24195_E.docx)

<sup>8</sup> <https://www.niccy.org/media/2931/enoc-position-statement-on-crse-21-sept-17.pdf>

<sup>9</sup> UNESCO (2009) *International guidelines on sexuality education; an evidence informed approach to effective sex, relationships and HIV/STI education*. Paris: UNESCO.

<https://reliefweb.int/sites/reliefweb.int/files/resources/8556521DD9D4A9E64925762000240120-UNESCO-Aug2009.pdf>

<sup>10</sup> <https://gov.wales/docs/dcells/publications/150225-successful-futures-en.pdf>

<sup>11</sup> <https://gov.wales/docs/dsjlg/publications/commsafety/161104-national-strategy-en.pdf>

<sup>12</sup> [Cross-cutting themes for designing your curriculum - Hwb \(gov.wales\)](#)

<sup>13</sup> [the-future-of-the-sex-and-relationships-education-curriculum-in-wales.pdf \(gov.wales\)](#)

<sup>14</sup> [Annual-Report-2017-18.pdf \(childcomwales.org.uk\)](#)

<sup>15</sup> [Children's Commissioner for Wales Annual Report 2020/21 \(childcomwales.org.uk\)](#)

This recommendation has been fully accepted by Welsh Government, and in their response to my Annual Report<sup>16</sup> the following is stated, *“The Welsh Government is committed to supporting schools and settings with high quality professional learning for this mandatory and cross-cutting area of the curriculum. It is also committed to the whole setting approach to Relationships and Sexuality Education (RSE), which will be outlined in the RSE Statutory Guidance due to be published in January 2022. Regions are working with schools, and will continue to do so, to support them with this new and important area of the curriculum.”*

I welcome this acceptance but I am yet to be assured that the plans are in place to ensure lead practitioners are in place, and have engaged in professional learning by September 2022. The Minister noted that a mapping exercise of a designated lead in local authorities and settings was underway last summer<sup>17</sup> but I am unclear as to the outcomes of this exercise. I am also unclear as to the specifics of a professional learning plan, and the timelines that this will entail. I would urge that at a minimum this group of lead practitioners should have had meaningful and extensive professional learning opportunities prior to September 2022, and that they can be a cornerstone of developing this understanding more widely in the profession.

I would also urge that a lead practitioner role in settings should be seen as an important and exciting opportunity for professionals: it is an opportunity to develop knowledge and expertise that is valuable across the curriculum, in pastoral roles, and in supporting other colleagues within and between settings. It offers a chance to develop leadership in a new curriculum area, and to research, pilot and refine new approaches. I would suggest that lead practitioners form expert networks, at a regional or indeed a national basis, and that this network would also include representation from the consortia, Estyn and Higher Education Institutions in Wales. The network should also integrate cross-sector approaches, and link to Public Health Wales, school nursing and the third sector, for example, organisations such as Brook Cymru.

Such a network would respond to the specific recommendation around developing an expert network in the 2017 SRE Expert Panel report<sup>18</sup>, and I would stress as well that this is an opportunity for the whole education sector to develop this knowledge together, and support each other to form a shared understanding. This is essential for this new curriculum area as there is not currently the degree of expertise available in Estyn or regional consortia to support or inspect settings with the same knowledge that is brought to more established areas of practice. This group could also be instrumental in developing a suite of much-needed nationally available teaching and learning resources, including those suitable for learners with additional learning needs, and these can be shared through Hwb.

Continuing through and beyond 2022, this professional learning should be continued and also extended so that all school leaders, all staff involved in teaching and learning, and all students in Initial Teacher Education can benefit in order to ensure the step-change required.

In terms of the content of professional learning, it is essential that this includes the ability for teachers to gain confidence in using participatory methods for teaching and learning, whereby the content of RSE is determined by the needs and experience of the learners themselves. Basing RSE in a participatory approach is essential to ensure it is developmentally appropriate, and therefore safe for children and young people. Without careful and emotionally safe participation it will not be possible for teachers to ascertain the needs and prior knowledge of

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<sup>16</sup> [Written Statement: The Welsh Government response to the Children’s Commissioner for Wales’ Annual Report 2020-21 \(26 November 2021\) | GOV.WALES](#)

<sup>17</sup> [Written Statement: Sexual harassment and abuse in education settings \(16 June 2021\) | GOV.WALES](#)

<sup>18</sup> [the-future-of-the-sex-and-relationships-education-curriculum-in-wales.pdf \(gov.wales\)](#)

their learners, which is required in order to ensure developmentally appropriate RSE. A pedagogical approach also needs to ensure sensitivity to the direct and indirect experiences of children and young people when ensuring RSE is delivered. To do this well requires skilled, conscious and sensitive teaching, including sensitive teaching of topics related to RSE in other curriculum areas, such as through learning relating to humanities and sciences, and in particular in learning related to Religion, Values and Ethics, which is required to be 'objective, critical and pluralistic'. There are many examples of where this learning is done well and which enable listening to young people, acknowledging and valuing the importance of emotions and experience, and ensuring their rights to privacy are maintained. Such approaches enable sources of support to be actively signposted and encouraged, and can be achieved through using a wide range of discursive, creative and participatory techniques, in which adult professionals facilitate young people to safely explore issues with their peers. Examples of the types of activities that can enable this are included in *Agenda: a young people's guide to making positive relationships matter*<sup>19</sup> and its partner resource for primary schools, *Agenda: supporting children in making positive relationships matter*<sup>20</sup>.

However my office is also aware of a few examples where RSE topics have not been managed in an emotionally safe way. For example, in the consideration of ethics and different worldviews, topics that will have directly impacted the lives of young people or their families can be positioned as the subject of class debate. Such topics include abortion, views around contraception, or views around gender and gender stereotypes. This type of approach, whilst perhaps enabling the plurality and critical discussion required in the teaching of Religion, Values and Ethics, can leave some young people feeling exposed and vulnerable, or feeling that they or their family members are being indirectly criticised for actions or opinions. It is very different from a discursive approach that ensures young people feel supported to explore RSE topics and develop their critical thinking in an emotionally safe way.

Professional learning will also need to ensure practitioners have the skills and understanding to meet the RSE needs of learners with Additional Learning Needs, and I stress that this is a need in mainstream settings in addition to specialist provision. Inclusive RSE means that all children need to be able to benefit from RSE, and that it is inclusive of LGBTQ+ lives and identities, as well as inclusive of the lives and experiences of disabled people. This inclusivity is needed to ensure that RSE is effective in preventing peer harassment of children and young people with protected characteristics. Professional learning will need to address this expressly, and will also need to encourage professionals to challenge their own views, experiences and unconscious biases in relation to all protected characteristics. This should also ensure gender equity is integral to the approach: as the Estyn review<sup>21</sup> illustrates professionals, as members of our wider society, also can use and model gender stereotyping, dismissing sexual harassment as 'banter' or 'being silly' or 'boys will be boys'. This reduces the confidence of young people in reporting harassment, and responding to harassment in a way that protects the rights of all, including girls, LGBTQ+ and disabled learners is an essential part of the professional learning needed for a whole school approach to RSE.

## **Role of Estyn**

In addition to participating in professional learning, Estyn has an important role in capturing case studies of effective practice in RSE, and this should be a priority as soon as possible, and subsequently ongoing. It should aim to create a developing bank of available information for teachers around effective pedagogy, for school

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<sup>19</sup> [Agenda](#)

<sup>20</sup> Ibid.

<sup>21</sup> [We don't tell our teachers - Experiences of peer-on-peer sexual harassment among secondary school pupils in Wales | Estyn \(gov.wales\)](#)

leaders around effective whole setting approaches, and for local authorities around effective practice at a local level, which links to other statutory services (e.g. health) and non-statutory services (e.g. voluntary sector). Case studies that show how RSE can be integrated into rest of curriculum would also be valuable. The integration of the cross-cutting requirements across the Areas of Learning and Experience may throw up particular challenges for settings in their local curriculum design. These cross-cutting themes, which include RSE, Human Rights Education and Diversity, were largely outside of Successful Futures<sup>22</sup> and therefore have not been integrated into the work of pioneer settings in the same way. Many settings across Wales have developed curriculum approaches without integrating later additions to the statutory requirements. I would recommend early case studies are available around this, particularly in secondary settings where the challenges of integrated cross-disciplinary teaching and learning can be more significant.

I would also recommend case studies that focus on effective family and community engagement and communication in relation to RSE, perhaps integrating this theme into the development of community schools. Case studies can be collected from ongoing inspection, but I would also welcome a specific thematic focus on RSE during the initial period of curriculum implementation.

I must also commend Estyn for the participatory approach they took to their recent review<sup>23</sup>. My office supported Estyn in developing this approach, and I am heartened by the success with which inspectors implemented this in settings, as evidenced by the high quality engagement of learners. This approach should be key to Estyn's ongoing work, in particular in relation to RSE, and case studies that are collected by Estyn should put children and young people's voices and experiences at the centre. I would welcome Estyn developing the participatory practice they have begun by considering case studies written from the point of view of a young person, for example learner stories, or through participatory research, where learners themselves identify key research questions and methodologies. Of course, there are additional learning benefits to such approaches, which could be done in combination with other university-led research, or work done by the National Academy of Educational Leadership.

## **Wider school culture**

### **A culture of participation**

Children are rights holders and I am hopeful that the cross-cutting theme of human rights education<sup>24</sup> within the new curriculum will be instrumental in bringing about a culture of participation and listening seriously to the views and experiences of learners. I am currently updating my guide, *The Right Way: A children's rights approach to education in Wales*<sup>25</sup> to reflect the new statutory requirements on settings in relation to children's human rights, and also to illustrate examples of practice where children and young people can genuinely participate in curriculum design, school policies, monitoring and evaluation and decision making in a setting. This could include for example decisions about uniform, or sports choices. This is an essential part of a national response to peer harassment. If children and young people genuinely feel they can raise concerns and be listened to and changes will be made as a result, then harmful experiences such as harassment can be far better prevented. This culture of participation and listening should happen within settings, but it should also be part of inspection, and school improvement on a setting, regional and national level. Estyn, consortia, local authorities and national government all have a part to play in ensuing genuine participation of children and young people in policy development and evaluation.

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<sup>22</sup> [successful-futures.pdf \(gov.wales\)](#)

<sup>23</sup> [We don't tell our teachers - Experiences of peer-on-peer sexual harassment among secondary school pupils in Wales | Estyn \(gov.wales\)](#)

<sup>24</sup> [Cross-cutting themes for designing your curriculum - Hwb \(gov.wales\)](#)

<sup>25</sup> [The-Right-Way-Education.pdf \(childcomwales.org.uk\)](#)

Settings should also consider an equalities approach to participation, given the disproportionate effect of peer harassment experienced by some groups of children and young people as illustrated in Estyn's review. Specific participation groups for LGBTQ+ learners and or girls can give a focus for the specific needs of young people. Settings should also consider how equitable opportunities are for wider participation: my 2021 report into school councils<sup>26</sup> illustrated that some learners, including those who are less academically or socially confident, have far fewer opportunities to participate.

### **Whole-school approach to RSE**

The importance of a whole school approach to RSE is included in the Code and Guidance, but this will need to become more than words by ensuring a practice change through professional learning as specified above. This will ensure that children and young people's learning in RSE is consistent with their experiences in all aspects of school life. Learning needs to be reinforced by the language professionals use, the behaviour that adults model and an approach to gender equity in sports, arts and culture, and in the policies and wider practice of a school, for example in whole school approaches to mental health and wellbeing, and in policies and practice in relation to positive relationships / anti-bullying / uniform / behaviour / online safety / careers and work experience. Below I highlight three specific areas that require particular attention at a national level: anti-bullying guidance; guidance to support trans children and young people; and expectations around school uniform.

### **Anti-bullying statutory guidance**

As noted by the Minister in his response to the Estyn review<sup>27</sup>, there is more that can be done to prevent and respond to identity based bullying, which can include gender-based bullying and bullying of LGBTQ+ learners. This should build on the rights-based and participatory approaches of Welsh Government's 2019 anti-bullying guidance<sup>28</sup>, the preventative and restorative approaches to responding to bullying that are already set out should be maintained. However guidance could go further in the requirements around recording and analysing data at a setting and local authority level. The current guidance specifies expectations for how local authorities should monitor equality data and prejudice related bullying, setting out the following:

*3.6 The Welsh Government expects all prejudice-related incidents to be accurately recorded to enable schools to monitor patterns and prevent discrimination. Local authorities frequently monitor prejudice-related incidents and require schools to report these. This is appropriate to enable schools and local authorities to monitor their compliance with the PSED.*

*3.7 Effective schools take a proactive approach to preventing all bullying and to mitigating its effects when it occurs. This includes teaching learners and training staff about stereotypes and challenging prejudice, and not being afraid to challenge unacceptable language.*

*3.8 The Welsh Government expects local authorities to encourage schools to take this approach and to record incidents so that patterns of prejudice-related behaviour can be identified 'advise schools on local trends by monitoring equality data, in accordance with data protection requirements and initiating responses or interventions as appropriate.'*

It also specifies,

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<sup>26</sup> [AMPLIFY: How to maximise young people's voices through your secondary school council - Children's Commissioner for Wales \(childcomwales.org.uk\)](#)

<sup>27</sup> [Written Statement: Peer on Peer sexual harassment in education settings \(8 December 2021\) | GOV.WALES](#)

<sup>28</sup> [School bullying | Sub-topic | GOV.WALES](#)

#### 4.4 Local authorities should also:

- *advise schools on local trends by monitoring equality data, in accordance with data protection requirements and initiating responses or interventions as appropriate.*

I welcomed these aspects of this statutory guidance, which responded directly to recommendations made in my Sam's Story report<sup>29</sup> and in my 2017-18 Annual Report<sup>30</sup>. However, it should be considered whether the corresponding guidance for school governing bodies can reflect similar expectations, so that these expectations can be reinforced at a setting level in addition to a local level.

I also suggest that the guidance for governing bodies, local authorities and young people themselves expands on the definition of prejudice based bullying to include gender based bullying specifically, and goes further in identifying the types of behaviour and language that constitute sexual harassment. I would note as well that defining incidents as bullying can result in young people feeling that harassment or abuse is being dismissed. This is particularly the case when a similar incident would be described as harassment or abuse if experienced by an adult. An expansion of this guidance should develop how professionals describe, identify and monitor incidents of sexual harassment. This should emphasise the need for incidents to be taken seriously, and then responded to using restorative approaches so that this is a teachable moment where a child or young person who is harassing another can reflect, learn and change this behaviour. This approach should also ensure a child or young person who is being harassed feels heard, safe and that their experience validated. Clearly, very serious incidents or persistent behaviour may require a different approach, and this is where education settings should also be supported by wider public sector services, including the police school support programme. Please refer to the final section of this response for more details on this area.

#### **Guidance for supporting trans children and young people**

I have welcomed the plan to create guidance on trans inclusion in schools, as set out in Welsh Government's recent consultation on the LGBTQ+ Action Plan.<sup>31</sup> I believe this is urgent as the lack of national guidance on trans inclusion is difficult for schools who are seeking to provide support and practical arrangements for their pupils. There is no available national or local authority guidance in Wales to advise education settings about how best to support trans children and young people and ensure their rights and welfare. This guidance gap has consequences in protecting children's rights – we know from our case work service that trans children and young people can suffer from direct and indirect discrimination, that education settings don't always know how best to support their welfare, and that the result of this can be that children do not access their human rights, in some cases meaning that children withdraw and disengage from education entirely.

Guidance documents recently produced by the Scottish Government and by Brighton and Hove Council provide examples that the Welsh Government can build on and improve to ensure a suite of guidance suitable for Wales. Careful consideration should be given as to whether this guidance should be statutory or advisory, as advisory guidance may be able to set out more comprehensive, practical and supportive steps that education settings can follow to ensure the rights of children and young people. Learning should be sought from the Scottish Government, particularly as to whether non-statutory guidance could actually better protect the rights of trans children and young people, to ensure fuller discussion and exploration of the key issues, and ensure that trans

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<sup>29</sup> [Sam's Story - Children's Commissioner for Wales \(childcomwales.org.uk\)](https://www.childcomwales.org.uk/sams-story)

<sup>30</sup> [Annual-Report-2017-18.pdf \(childcomwales.org.uk\)](https://www.childcomwales.org.uk/annual-report-2017-18.pdf)

<sup>31</sup> [LGBTQ+ Action Plan | GOV.WALES](https://gov.wales/lgbtq-action-plan)

young people's views and priorities as rights-holders are taken into account. National leadership is needed urgently on this issue.

### **Uniform**

Welsh Government has statutory guidance for governing bodies on formulating and revising their school uniform policies<sup>32</sup>. This specifies that school uniform policies should not create grounds for bullying, and should also safeguard and promote the welfare of learners. It also specifies that governing bodies 'ensure an inclusive school uniform policy that does not discriminate on the basis of sex or gender identity.' Guidance also specifies a need to review policies regularly and to ensure the consultation of children and young people as part of this review.

However, despite this guidance, the prominence of school skirts are notable in Estyn's review, in which the word skirt appears 23 times. The report also highlights that, *"Most girls and the majority of boys discuss issues around the length and fit of the school skirt. They say that girls are bullied by other girls if their skirts are too long and sexually harassed by boys if they are too short."* In addition, the report finds that, *"The majority of girls have some experience of having their skirt lifted up during their time in school."*

In light of this, I suggest there is a need for Governing Bodies to specifically consider how skirts feature in the experiences of their pupils. Schools should consider doing their own consultation with young people to find out their own views and experiences in relation to their school uniform, and enable learners themselves to consider if their uniform is appropriate, and what learning is needed across the whole school community in relation to harassment and clothing. School councils and pupil voice equality groups should play an important role here. I suggest that consideration could also be given as to whether Welsh Government can do more work through local authority Governor support units, or through the Association of Directors of Education Wales, in order to raise the awareness of this guidance with Head teachers and Governing Bodies, and to raise the issues around school skirts that have been flagged in the Estyn report<sup>33</sup>, and the consequential need for schools to consult with learners and be aware of issues around skirts in periodical revision of uniform.

### **Wider system culture**

Whilst Relationships and Sexuality Education is a key route by which this peer harassment can be addressed and prevented, this is not an issue solely for education settings and education professionals. Schools need support from their families, communities, and wider public services. Estyn's review found that, *"In all schools, the whole school community speak highly of the work of the School Police Officer, not only their delivery of the Wales Police Schools Programme but about their supportive school policing initiative as School Beat officers."* This highlights the value of the police and in particular their important role in education settings through the Wales School Police Programme. I, too, have heard directly from some schools about how they value the advice of Police School Liaison Officers on how to respond to specific incidents such as sexting, as well as the preventative lessons they deliver.

Youth workers also have a valuable role to play in RSE through informal education methodologies, and secondary settings should explore how youth workers can help create and deliver their own RSE curriculum. Local authorities could explore how this collaboration could take place at a local level, and this could be a specific role for RSE leads within local authorities. The third sector also has much to offer as a potential delivery partner. For

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<sup>32</sup> [School uniform and appearance: policy guidance for governing bodies \[HTML\] | GOV.WALES](#)

<sup>33</sup> [We don't tell our teachers - Experiences of peer-on-peer sexual harassment among secondary school pupils in Wales | Estyn \(gov.wales\)](#)

example, Welsh Government-funded Spectrum delivers high quality bilingual healthy relationships lessons in both primary and secondary schools. Again, this is something that RSE designated leads in settings could explore, perhaps on a cluster basis, and it is also an area of delivery that could be explored at a local authority level.

The RSE Code and Guidance also refers to online contexts, and I would like to commend the work of Welsh Government's digital resilience team, in particular around their creation of a range of teaching and learning resources that relate to ensuring rights in a digital context. These include learning resources around online privacy, online hate speech, online sexual harassment, hoaxes and fakes, sharing nudes and semi-nudes, sexting and online relationships. All are available bilingually on Hwb<sup>34</sup>. Recent resources have included a focus on children's rights, and this positive language is important to model so that children and adults develop an understanding that their human rights are the same, regardless of whether they are in an on offline or online environment.

However, more could be done to ensure cross-governmental working in relation to this issue, in particular between safeguarding and education, so that developments in relation to the RSE professional learning can make meaningful links with safeguarding requirements in education settings. Similarly, work in education can be meaningfully informed by health information, and vice versa, particularly through utilising the School Health Research Network surveys to ensure there is a relevant focus on policy and education priorities at a setting, local and national level. Link up should also be ensured with work to implement the Violence Against Women Domestic Abuse and Sexual Violence National Strategy, for example, ensuring campaign materials (as for the current Call Out Only campaign) are also appropriate for, and shared with young people and education settings.

At a UK level, the Online Safety Bill will provide Ofcom with a regulatory role in relation to some online platforms. Welsh Government has a role here in ensuring that Ofcom's role is informed by children's rights, and there could also be work across the Governments of the UK to ensure that children and young people from each jurisdiction can participate in the work of Ofcom, for example through a young person's advisory group. I have met with board members of Ofcom to advise such action, and to offer the ongoing advice of my office in ensuring the regulator responds to the specific needs of children and young people.

I also urge Welsh Government to continue the information and reassurance campaign that was begun during the time that the RSE Code and Guidance passed through the Senedd. Misinformation about RSE persists and there are ongoing risks that families and communities may oppose the delivery of RSE in settings, and some families may even de-register children due to concerns about content. All actions must be taken to ensure there is clear and accurate information about RSE available to families, and that settings are supported to engage directly with families in planning their RSE curriculum. In addition to an ongoing national campaign on this issue, local authorities should take a role in supporting effective community and family engagement on this issue across different departments of the local authority, including through education welfare support.

Submitted by:



**Professor Sally Holland**

**Children's Commissioner for Wales**

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<sup>34</sup> [Repository - Hwb \(gov.wales\)](https://www.gov.wales/repository)