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POLICY REVIEW

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Children and Society Policy Review—A review of government consultation processes when engaging with children and young people about the statutory guidance for Relationships and Sex Education in schools in England

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Abstract

This paper examines the participation of children and young people within government consultation processes. It considers the recent Department for Education consultation on its statutory guidance for schools for Relationships and Sex Education in England. The paper is based on a Freedom of Information request for the consultation responses categorised as from 'young people'. We identify two issues in our interrogation of the data. First, there is evidence that a substantial proportion of responses were not submitted by young people. Second, the consultation approach did not include all the features necessary for meaningful consultation. We consider the implications for the youth consultation on policy matters that affect them.

KEYWORDS

education, PSHE, youth

INTRODUCTION

This paper examines the participation of children and young people within government consultation processes. It considers the Department for Education (DfE) consultation on its statutory guidance for schools on Relationships and Sex Education (RSE) in England, which took place between 19 July and 7 November 2018, as a case example. This is a novel example because it involved consulting children and young people on an RSE curriculum that most schools in England are now legally required to teach. The review of the consultation is based on a Freedom of Information (FOI) request for the consultation responses categorised as from 'young people' (2 per cent of all responses). While it is positive that the government endeavoured to include young people in the consultation, our interrogation of the responses identified two issues. First, there is evidence that a substantial proportion of responses were not submitted by young people. Second, we suggest that the consultation approach did not include all the features necessary for meaningful consultation. We first outline the national/international frameworks intended to support and advance young people's rights to be consulted, and the literature pertaining to good practice in youth consultation. We then examine the DfE consultation on the RSE guidance and conclude that due to the issues identified, it now falls to schools to work with pupils to develop and devise local RSE provision in response to the government guidance. We suggest several ways of doing so effectively. We end by arguing that, moving forward, consultation with children and young people on government legislation of this kind should take place on three levels: individual, institutional and strategic (see Fielding, 2002; Lundy, 2007). The review will be of interest to those working in the field of RSE both within England and beyond, as well as other applied policy topics that affect the lives of young people.

YOUTH CONSULTATION AND PARTICIPATION IN POLICY-MAKING

The legal and human rights context

There are national and international legal and human rights frameworks that uphold young people's rights to be consulted and to have their voices heard on policy areas that affect them. The biggest driver, the development of the United Nations Convention on the Rights of the Child in 1989 (UNCRC), was adopted by the United Kingdom in 1991 (Noyes, 2005). It upholds young people's rights to freedom of expression (Article 13.1), to express their views freely in all matters that affect them, and for these views to be given due weight in accordance with their age and maturity (Article 12.1).

In England, there are several political initiatives to encourage consultation of young people in policy development (Woolfson et al., 2008). Legislation such as the Children Act 1989, Education Act 2002, Children Act 2004 and Education Act 2005 create legal duties to consult young people on decision-making that affects them, and to collaborate with professionals that work with them. Policy papers, including Every Child Matters (DfES, 2003); Working Together (DfE, 2015) and Higher Standards, Better Schools for All (DfES, 2005), reiterate these duties. There have been initiatives to include young people in policy development and evaluation, for example the Children and Young People's Unit (est. 2000); Children's Commissioners (est. 2005); the Healthy Schools Programme (DfES, 2004) and the Children's Plan (DCSF, 2007). Comparable legislation and initiatives exist in Scotland, Northern Ireland and Wales (Woolfson et al., 2008) and on a

wider international scale (Davies & Kirkpatrick, 2000; De Carvalho, 2012; Flutter, 2007; Swedish National Agency for Education, 2010).

As well as the right to be consulted, the UNCRC upholds young people's right to RSE (Article 28) designed to support their full development and preparation for participation in society (Article 29). The World Health Organisation (WHO) supports young people's rights to comprehensive RSE and states that the design and delivery of RSE should involve participatory consultation with young people and other stakeholders. In its first periodic report on the UK's progress on the UNCRC in 1995, the UN Committee identified a failure to elicit young people's views on RSE. Its most recent report in 2020 found variable RSE content and quality across schools and poor provision for LGBTQI+ children.[1] It also noted that RSE is not yet statutory; the DfE consultation process discussed in this review pertained to developing statutory RSE guidance.

The process of consulting children and young people

Practically, consultation involves seeking the views of 'stakeholders' on a policy area or issue. As well as being a legal requirement, consulting young people is considered to represent good pedagogical (or policy-making) practice. It is thought to lead to better policy-making processes and outcomes including within educational settings (Bragg, 2010; Cheminais, 2011; Flutter & Ruddock, 2004; Halsey et al., 2008). Young people are considered 'experts at being young, and they can offer solutions adults would not necessarily think of' (Nesbitt, 2001, p. 331; Bragg, 2010; Rudduck, 2002). This also pertains to RSE, in which the United Nations Educational, Scientific and Cultural Organisation (UNESCO) states that 'employing young people's ideas, connections and unique expertise in programmatic work [for RSE] increases the reach, attractiveness, relevance and effectiveness of interventions' (UNESCO, 2018, p. 86).

Despite the ideal that all young people should be involved in consultation, scholars have found that only a limited range of youth may engage, or be invited to engage, with the process, with girls seemingly more likely to respond than boys (Ellsworth, 1989; Kirby & Bryson, 2002) Participation may necessitate willingness and ability to express oneself in an acceptable style (Rudduck, 2002, p. 131). There has, however, been positive developments in the field of youth consultation, including good practice on engaging 'hard to reach' young people. This paper assesses the extent to which the DfE consultation on the RSE statutory guidance aligns with this good practice.

'MEANINGFUL' AND 'EFFECTIVE' CONSULTATION WITH CHILDREN AND YOUNG PEOPLE

Evidence and best practice in consulting with children and young people

Consultations should be focused and specific but broad enough to engender 'worthwhile and significant' participation (Bragg, 2010, p. 26). Numerous guides about consulting with young people seek to address these points, some in relation to RSE (e.g. Blake & Muttock, 2005; Connexions, 2005; Lightfoot & Sloper, 2003; Macbeath et al., 2003; Shaw, 2004; Sinclair, 2004). There are a variety of methods available, distinct from surveys, for example bigger and/or one-off consultation events (Bragg, 2010) or youth forums (Houghton, 2008; Smith et al., 2008). These

formats can, however, favour a particular type of young person and may not capture the diversity of the 'youth voice' (Fielding, 2002; Reay & Arnot, 2002). Young people's rights are, furthermore, not homogenous and may conflict (Gillett-Swan & Lundy, 2021). Nolas (2015, pp. 163–164) recommends an 'intersectional' approach that makes 'visible and vocal' the contexts in which rights are located and enacted. In RSE specifically, there are—oftentimes normalised and invisible—multifaceted and contextual influences over young people that must be accounted for, including within the consultation process (Templeton et al., 2020).

Identified risks and realities of tokenism should be addressed through creating dialogue, ensuring that a diverse range of individuals are able to participate effectively, and providing feedback (Bragg, 2010; Lundy, 2018). An example of good practice is Ireland's National Strategy on Children and Young People's Participation in Decision Making 2015–2020, which utilises Lundy's model of participation comprising 'space', 'voice', 'audience' and 'influence' (Welty & Lundy, 2013). In Lundy's model, 'space' means providing inclusive opportunities for participation and expression; 'voice' means providing information, informed consent and a variety of opportunities for expression; 'audience' means providing a person(s) to communicate views to, who has the authority to respond and the power to influence decision-making and 'influence' means providing procedures for voices to be acted upon and feedback on how they have been acted upon. The model requires legislation and policy to mandate child participation; infrastructure to facilitate engagement, and local mechanisms to encourage representation (Lundy et al., 2020). With respect to RSE, most consultation with children and young people has occurred at the local level and/or by third-sector organisations, and thus the DfE consultation discussed in this review is not directly comparable because it pertained to national legislation. We recognise, however, that now that the RSE guidance has been finalised, any subsequent consultation with children and young people about RSE provision falls to schools and, therefore, following our examination of the DfE process we outline the evidence on best practice on pupil consultation for RSE.

POLICY CONTEXT—RELATIONSHIPS AND SEX EDUCATION IN ENGLAND

In England, the Children and Social Work Act 2017 bestowed compulsory status upon RSE. The DfE published its statutory guidance on RSE for schools on 25 June 2019. All state-maintained primary and secondary schools in England were to teach the statutory curriculum from September 2020, but this implementation period was extended due to disruption caused by the Covid-19 pandemic. It is expected that most schools will now have commenced implementation of the guidance. To inform the development of the guidance, the DfE sought the views of stakeholders, including young people and youth-facing organisations, parents/carers, teachers and education professionals, subject specialists and religious bodies. This stakeholder engagement process included a 'call for evidence' (CfE) held between 19 December 2017 and 12 February 2018, which invited submissions from organisations and individuals about their perspectives on RSE in response to open-ended questions (DfE, 2017). There were separate calls for young and adult respondents from whom there were 2323 and 15 528 submissions respectively. The findings from this call were used by the DfE to inform the development of the draft statutory guidance.

Between 19 July and 7 November 2018, the undertook a consultation on the draft guidance, which involved a survey administered to headteachers, teachers and school staff (including governors), other educational professionals, voluntary and community organisations, parents and carers, young people (including those under the age of 13 with parental consent) about

the proposed curriculum content, legal framework, impact assessment and support to be provided to schools (DfE, 2018, pp. 4–5). The consultation on the draft guidance received 23 000 responses, of which 2 per cent were categorised as from 'young people'.[2] On 11 March 2021, we submitted an FOI request for these responses. The DfE provided the responses of 232 young people on 7 April 2021, of which 52 were redacted because respondents marked their response as confidential. We chose to focus on the consultation conducted at the draft guidance stage for the FOI because it was at this stage that the DfE had formulated its proposed objectives and RSE curriculum and this is a novel example of children and young people being consulted about an area of legislation, specifically regarding the RSE curriculum that most schools now legally have to teach.

YOUNG PEOPLE'S PARTICIPATION IN THE DFE CONSULTATION ON THE STATUTORY RSE GUIDANCE FOR SCHOOLS IN ENGLAND

The consultation survey on the draft guidance included a mix of open/free-text and closed questions about the government's proposals for RSE. A 5-point Likert scale ranging from 'strongly agree', 'agree', 'neither agree or disagree', 'disagree' or 'strongly disagree' was provided for closed questions. The data suggest that respondents varied in their attitudes to RSE and the extent to which and why they either supported or did not support the government's proposals. In the free-text responses to the open questions, some respondents expressed their support for holistic and comprehensive RSE that is inclusive, skills-based, develops knowledge and understanding and prepares pupils for life. Those who were not in favour emphasised, for example that it is the duty of parents and families to provide RSE and that RSE should happen at home rather than in school, and, for primary school children, that it is inappropriate to teach about the topics. On the face of it, young people's positive orientations towards holistic and comprehensive RSE are reflective of findings from research conducted with young people about their perspectives on RSE (e.g. see Pound et al., 2016 for a review). However, research conducted with young people about what they want from RSE is based on pre-statutory curriculum RSE and tends to ask young people about topics they feel should be included or elaborated upon in more detail (e.g. Sex Education Forum, 2021), whereas the DfE was asking them about the specific proposed curriculum topics and objectives.

It is, furthermore, difficult to draw firm conclusions about young people's perspectives on RSE from the data due to potential problems identified with respondent characteristics and the framing of and approach to the consultation, to which this review now turns. Significantly, of the 180 responses that were not redacted, 62 appear to have been submitted by coordinated campaigns. For every open question, the following identical statement was submitted:

> 'I do NOT want homosexual lessons in Relationship or RSE. I want to WITHDRAW from both. I will NOT go to school if homosexual relationship is taught.'

These respondents disagreed strongly with every proposal outlined in the closed questions. There were some duplicate responses pertaining to supportive views about LGBTQI+ and inclusive teaching for RSE, but these were not as extensive as the coordination of anti- LGBTQI+ responses. For example, three respondents stated that:

> "To help prevent and tackle anti-LGBT bullying, the guidance for teaching about different types of bullying at secondary school should make specific reference to prejudice-based bullying, including homophobic, biphobic and transphobic bullying."

Respondents were asked to identify their current school stage. Parents and grandparents were told to select their child or children's school stage/s. If the 180 responses classified as being from 'young people' were submitted by an individual young person, presumably they would select one school stage, whereas three respondents selected more than one stage (of which two submitted free-text statements as part of a coordinated response), 72 did not select any stage, and two selected 'not at school stage'. It is unlikely that the latter two were from young people who had completed school because there was an option for 'completed' (and six respondents selected this option). Furthermore, it is perhaps unlikely that the 58 responses from 'primary school' respondents were all from this age group, given that this is quite a young age to be reading and responding to survey questions of this nature (which, as discussed below, were not tailored to young people).

In its consultation response, the DfE was upfront about how some responses were seemingly submitted by organised campaign groups and described these as not necessarily invalid and analysed them in the same way as other responses while noting where they had a 'large impact on the key themes at any question' (DfE, 2019, p. 7). These responses may indeed be valid because they represent *someone's* view. However, where these respondents have misrepresented themselves as young people, it calls into question the purpose and benefit of inviting young people to participate because it obscures young people's true responses and inflates the number of young people described as participating. This issue may also have affected the CfE. In the summary of responses from the CfE in the consultation document, it states that 1797 responses were submitted by organised campaign groups, although does not give the proportion of these that were submitted to the young person's call specifically.

The issue of being unable to verify the respondents is coupled with the high rate of incomplete responses across the questions. Respondents could skip questions and the majority of the 180 respondents for whom data were provided skipped most of the questions. The highest response rates were for questions about content, where the overwhelming majority submitted a response. By contrast, over two-thirds to nearly three-quarters of respondents skipped questions about the legislative framework and support for schools, while 81 per cent skipped the question about school costs. These questions may also have been skipped by other respondents (e.g. parents or grandparents); however, the lack of suitability for young people is striking. Most respondents also did not submit any responses to the free-text questions that asked them to elaborate upon their views on the proposals. This means that while there was seemingly some diversity in perspectives among respondents, there is limited scope to understand in-depth all respondents' perspectives and there was no mechanism for following up and further investigating any of the perspectives shared in the responses.

Consultation phrasing is important because 'what [young people] say depends [in part] on what they are asked, [and] how they are asked' (Bragg, 2010, p. 31). In this consultation, the questions were leading (e.g. 'Do you agree that the government is right to...') and while some were relatively straight-forward (e.g. 'Do you agree that the content of RSE is age-appropriate for secondary school pupils?) others pertained to overly complex matters (e.g. Are there any other cost burdens on schools, which you believe should be included in the regulatory impact assessment?).

Unlike in the CfE, there were no questions specifically for young people, contrary to good practice as recognised by the government (DCSF, 2008).

Avoiding tokenistic consultation requires offering young people opportunities to participate and express themselves in the manner of their choosing and providing feedback to them about how their input influenced outcomes (Bragg, 2010; Hirst, 2004; Lundy, 2007; Prout, 2001; Roberts, 2003; Woolfson et al., 2008; also see Hart, 1992). While, as noted below, youth-facing organisations engaged with young people when formulating their consultation responses, the DfE approach in both the CfE and the consultation involved inviting young people to participate by submitting responses to pre-conceived questions. There has been no account of any direct engagement with young people by the DfE nor of any strategies to encourage young people to engage with the CfE or the consultation. In terms of feedback, the DfE summarised the responses to both the CfE and the consultation. While acknowledging the differences in perspectives among respondents, the DfE upheld its commitment to comprehensive RSE, including age-appropriate provision of information and knowledge about the law. In neither were the views of young people disaggregated from the overall findings and there was seemingly no direct feedback from the government to young people.

We conclude that the quality of the consultation is, in this instance, perhaps lacking. We note that the DfE did conduct other forms of consultation in its development of the guidance and the CfE was closer to good practice on consultation insofar as there were specific open questions tailored to young people. However, it seems that the specific approach to consulting on the draft proposals did not involve sufficient efforts to meaningfully include a broad range of young people on their own terms. We now consider what meaningful and effective consultation may look like considering the problems identified above. We then suggest that the task now falls to schools to consult with pupils when designing and delivering RSE provision in light of the statutory curriculum and discuss best practice for doing so.

Consulting children and young people about RSE

Young people's voices may be best expressed through the infrastructure of youth-facing organisations, who already undertake much of the workload of youth consultation (Bragg, 2010). While the DfE did not undertake direct outreach with young people, youth-facing organisations worked with young people to understand their views about current provision and what they want from RSE when formulating their consultation responses. These organisations include Young Minds, Bernardo's and Brook. It remains unclear whether the work of these organisations informed the DfE guidance and, if it did, whether young people felt that the issues they had identified had been adequately addressed.

Youth-facing organisations are not, therefore, a magic bullet and there are various cultural, political and organisational factors impacting the work of these organisations vis-à-vis facilitating participation and giving voice to young people (Nolas, 2015). These include the 'marketisation of public services... the role of third sector organisations in competing and delivering government contracts... culturally specific notions of age, statutory logics for service organisation and delivery and changing demographics' (Nolas, 2015, p. 160). There is also a need for general insights about young people's needs on a larger, national scale for policy of this kind. The National Surveys of Sexual Attitudes and Lifestyles (NATSAL) provide insights into sexual behaviours, but not what would have been useful to know *before* engaging in these behaviours and, therefore, what is needed from RSE. While there has been small-scale research investigating what young people

want from RSE, large-scale studies are rare and few compare the perspectives of young people with those of adults such as teachers and parents. Given the RSE consultation appears to have been largely underpinned by adult responses, it is currently impossible to determine whether young people felt that the guidance addressed their needs.

Whilst studies have highlighted what is good and bad about existing provision, this does not address the new RSE curriculum. Meaningful consultation would, therefore, also involve opportunities to review the curriculum and guidance. Schools are now tasked with developing and delivering local RSE provision in response to the guidance and must decide if they will go further than the legal requirements (Wire, 2021). The DfE instructs schools to consult pupils and parents as part of their implementation of the guidance, including their review and development of curriculum provision. While there are some suggestions for how to consult with parents, there is, however, no mention of how pupils should be consulted. While pupil consultation may be beneficial, practitioners do not always find it easy to translate principles into practice and consultation processes and outcomes can reflect localised social divisions and power imbalances (Rudduck, 2002). Consulting pupils about education and schooling can be challenging, but RSE perhaps particularly so because it is a highly contested, politicised and complex area crossing boundaries of education and socio-cultural norms. The emphasis on 'appropriateness' in the guidance, coupled with a history of threats towards teachers who teach topics deemed to be inappropriate (e.g. 'Section 28' which banned 'the promotion of homosexuality'), may mean that consultation efforts stay within 'safe' realms and do not give pupils the opportunity to challenge or expand the curriculum based upon genuine and open dialogue between pupils and the adults responsible for policy and practice (Fielding, 2002, p. 133). Nixon and Givens (2007) found that while Section 28 is no longer in effect, its influence remained and staff teaching in schools could recall and were mindful of repercussions of teaching LGBTQI+ topics.

Suggestions for effective RSE consultation in educational settings

If it is to be meaningful to young people and effective in influencing change, participation should be embedded within relationships and ways of working and should be evaluated for its outcomes (Bragg, 2010; Kirby et al., 2003; Kirby & Bryson, 2002). Consultation on RSE might start with issues that can be resolved along the lines proposed by young people to build confidence in the process (Bragg, 2010). Educators could ask, for example, about when RSE should be delivered and how. When a programme of RSE has been decided, pupils could be consulted again about the topics and teaching styles. There are various methods for doing so (O'Higgins & Nic Gabhainn, 2010). Wire (2021) suggests that group discussions can help generate open discussion and enable individuals to elaborate on their perspectives to a greater extent than is possible in a survey. O'Higgins and Nic Gabhainn (2010) suggest that quantitative methods are better at generating insights that are representative of populations, while qualitative methods generate understandings through the elaboration of nuance and meaning. Specific methods for eliciting pupils' perspectives that can be adapted and adopted for use in different school contexts and for different purposes range from suggestion boxes, graffiti walls, 'statement trees' and voting systems to facilitate anonymous contributions, to in-person debate and discussion, along with visual prompts and journey maps. There are toolkits available with practical solutions (e.g. Martinez & de Meza, 2008) and The Sex Education Forum's poster on the '12 principles for good RSE' could be used as a stimulus for consultation.

Young people should subsequently be involved in following up the changes established from their proposals or ideas (Bragg, 2010). Consultation on RSE provision in schools could lead to the establishment of a panel of staff and pupils who discuss how the curriculum might evolve to support pupils as they move through school. Important is recognising the diversity of perspectives among pupils and between pupils and educators, and not pushing specific perspectives. Ensuring inclusivity of a diverse range of perspectives in such initiatives is challenging (Bragg, 2010). In particular, Fisher and Hutchting (2019) identify a lack of evidence on how best to consult with LGBTQI+ youth notwithstanding the recognised need to better engage with and reflect the needs of these young people. Local and situated power dynamics will also impact the process. O'Higgins and Nic Gabhainn (2010) state that the power to improve the situation may, ultimately, remain with adults who determine how young people's needs will be met. They discuss the new paradigms in social sciences that view children and young people as competent social actors capable of participating. Cobbett et al. (2013) discuss an action research project conducted in six African countries in which space was created for consultation, listening and dialogue between adults and children as social equals. They found that:

> '...in some schools, pupils were able to contribute significantly to the group. In doing so, they challenged and changed participants' beliefs about childhood and children's capacities, thus rewriting the nature of discussions about what 'children' should know about sex and sexuality. While in other instances, adult power clearly constrained the possibilities of what children could say' (Cobbett et al., 2013, p. 77).

A potential solution could involve pupils as researchers (Fielding & Bragg, 2003) which Thomson and Gunter (2006) argue may represent a more 'disruptive' (p. 845) and, therefore, 'transformative' (p. 853) process.

CONCLUSION

In the DfE (2018) consultation on the draft statutory guidance, the responses were confined to a narrow range of options but the questions themselves may have been too wide to lead to specific actions. There was, therefore, perhaps limited potential for youth to influence consultation outcomes at this stage of finalising the guidance. There is no account describing whether and how their views had been accounted for and no statement describing how participants had influenced policy regarding the submissions to either the CfE or the consultation survey. Moving forward, we agree that listening to young people and responding to their concerns and perspectives should occur at individual, institutional and strategic levels (Fielding, 2002) in terms of individual pupils; school and classroom policy and government policy and legislation (Lundy, 2007). Given that the DfE has committed to regularly reviewing and updating the RSE curriculum we suggest that the different levels of consultation are fed-forwarded into regular calls for evidence from young people. These levels correspond with the typology of three voices proposed by Hadfield and Haw (2001): authoritative, critical and therapeutic. Each type represents a different process of articulation and intended outcome and different levels of policy consultation facilitate a different type of voice. Adopting a style and methodology of consultation that encapsulates these voices through consulting at different levels, as well as ensuring that young people's perspectives are responded to and acted upon, may help address some of the issues identified in the examination of the DfE consultation.

DATA AVAILABILITY STATEMENT

Data sharing not applicable to this article as no datasets were generated or analysed during the current study.

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ENDNOTES

[1] We note the variation in terminology but use LGBTQI+ to refer to those who are lesbian, gay, bisexual, transgender, queer and intersex.

[2] The remaining 98% of responses was comprised of parents (31%), other interested individuals (29%); grandparents (11%); teachers (8%); other education professionals (7%); organisations and teaching unions (3%); school governors (2%) and headteachers (1%).

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