



Children's
Rights Alliance
for England

FAQ - Full Answer



“I’m 14. My parents excuse me from religious education and sex education but I want to attend both. Surely I’m old enough to decide this for myself.”

What Schools Must Teach

Every maintained school in England (i.e. government funded) must provide a basic curriculum of the National Curriculum, including RE and SRE (2002 Education Act, section 80(1)).

The rule is slightly different for RE in special maintained schools; they are only required to make sure that, as far as practicable, a pupil receives RE (Regulation 5A, Education (Special Educational Needs) (England) (Consolidation) Regulations 2001, as inserted by the Education (Special Educational Needs) (England) (Consolidation) (Amendment) Regulations 2006).

Independent schools (i.e. private) are not required to provide RE or SRE.

Withdrawal from Sex and Relationship Education

In maintained schools under the Education Act 1996:

- The sex education elements of National Curriculum Science are compulsory for all pupils of (primary and) secondary school age. These cover topics like anatomy, puberty, biological aspects of sexual reproduction and use of hormones to control and promote fertility;
- Secondary schools are also required to provide a specific SRE programme.

Your parents can only withdraw you from all or part of the specific SRE programme. They cannot withdraw you from the sex education that is included in the National Curriculum (section 405 of the Education Act 1996).



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Your parents have a duty to ensure that you receive a proper education (Education Act 1996, section 7). Therefore, having withdrawn you from SRE at school, it can be argued that your parents have a responsibility to provide alternative SRE. The Government's SRE guidance states that where parents do withdraw their children from SRE at school, schools should make alternative arrangements (Department for Education and Employment *Sex and Relationship Education Guidance 2000*, paragraph 5.7). In these circumstances, your school will make suitable arrangements for your supervision like organising for you to go to your school library or to do your homework. Schools are legally obliged to have an up-to-date SRE policy which includes a statement of a parent's right to withdraw their children from SRE (section 404 of the Education Act 1996).

Withdrawal from Religious Education

Your parents have a right to withdraw you from all or part of the RE taught at your school (section 71, School Standards and Framework Act 1998).

It is possible that you may still receive some RE through other areas of the national curriculum when, as may happen sometimes, a pupil raises questions on religious matters or there are issues related to religion that come up in other subjects like history. Even if your parents don't like the fact you are studying a religious topic related to your history lessons they cannot withdraw you from these classes as history is a National Curriculum subject.

Having been withdrawn from RE, the law provides for alternative arrangements to be made for RE of the kind your parents want you to receive (section 71(3), School Standards and Framework Act 1998).

This could be:-

- ♦ at the school you normally attend; or
- ♦ at another maintained school where suitable RE is provided if this is reasonably convenient; or
- ♦ if neither is practical, somewhere else where the kind of RE your parents want is provided, and you may be withdrawn from school for a reasonable period of time to allow you to attend.



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In the case of the last option, this is allowed as long as your Local Education Authority is satisfied that any interference with your school attendance will affect only the start or end of a school session (section 71(4), School Standards and Framework Act 1998).

You do not say what type of school you go to. It is important to note that these provisions about withdrawal (and alternative arrangements) in relation to RE and SRE only apply if you go to a maintained school. If you go to a private school, the private contract between your parents and the school will determine whether your parents can withdraw you from these classes.

Withdrawal and Human Rights

You have the following legal rights under the [Human Rights Act](#) and the [European Convention on Human Rights](#) (ECHR):

- the right to freedom of thought, conscience and religion (Article 9). This includes a right to show your religion or belief in worship, teaching, practice and observance.
- the right to freedom of expression (Article 10)
- the right not to be denied education (Article 2, Protocol 1)

The Human Rights Act makes the rights in the ECHR enforceable in the English courts. In 1976 the European Court rejected an application by Danish parents that compulsory sex education breached their parents' right under Article 2 of Protocol 1 to education '*in conformity with their own religious and philosophical convictions*' (*Kjeldsen, Busk Madsen and Pedersen v Denmark*). The Court held that sex education was different from religious education because it was primarily about biological facts not tenets of faith, and where it did involve value judgments the expressed aim was to "*enable pupils, when the time comes, to take care of themselves and show consideration for others in that respect*", '*not ... [to] land themselves or others in difficulties solely on account of lack of knowledge*'. This suggests that an application by a child denied the right to sex education (for example about how to protect from unwanted pregnancies or HIV and other sexually transmitted diseases) might be successful.



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You also have the following rights under the [United Nations Convention on the Rights of the Child](#) (UNCRC):

- the right to be heard, express opinions and be involved in decision-making (Article 12);
- the right to freedom of expression (article 13).

In addition, the following rights under the UNCRC support the provision of SRE specifically:

- to access information that will allow you to make decisions about your health (Article 17)
- to enjoy the highest attainable health, access to health facilities, preventative health care, and family planning education and services (Article 24)
- education to help you learn, develop and reach your full potential and prepare you to be understanding and tolerant to others (Article 29)
- Government protection from sexual abuse and exploitation (Article 34).

Unlike the ECHR, the UNCRC is not part of English law but it should be taken into account by courts and public bodies when making decisions, particularly when considering the ECHR rights.



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What you can do

If you attend a private school then it is likely that the contract between your parents and the school allows you to be withdrawn from RE and SRE classes, otherwise the school would have done something about your non attendance. You could however check this with the school secretary or head.

If the contract does allow your parents to withdraw you from class then there is little you can do except talk to your parents and suggest that they talk to the school about their concerns with you attending SRE and RE at the school and to look at the teaching materials used. Depending on the reasons why they do not want you to attend SRE and RE classes, it may be that gaining a fuller understanding of what the classes involve or seeing whether their concerns can be addressed by the school might give them the reassurance they need to let you attend some or all of the classes.

Talking to your parents in this way would also be a good starting point if you go to a maintained school.

If having spoken to your parents they still do not want to let you attend SRE or RE classes at school, and you are not happy with any SRE or RE you might be getting at home, then you could challenge your parents' decision to withdraw you from SRE and RE classes.

You would need to apply to court for a "specific issues order" under section 8 of the Children Act 1989 asking the court to require your parents to allow you to attend SRE and RE classes.

You would need the "leave" (i.e. permission) of the court to apply and the court would only give you leave if satisfied that you have sufficient understanding to make the application (section 10(8)).



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In deciding whether to make the order your welfare would be the paramount consideration (section 1(1)) i.e. what is in your best interests. In deciding what is in your best interests the court will have regard to the following things (section 1(3)):

- your wishes and feelings;
- your physical, emotional and educational needs;
- the likely effect on you of making the order;
- your age, sex, background and any other characteristics of yours that the court thinks are relevant;
- any harm which you have suffered or risk suffering as a result of having been withdrawn;
- how capable your parents are at meeting your needs.

If you were to be unsuccessful either in getting permission to have a section 8 hearing or the application itself, [contact CRAE](#). We would be interested in advising you on an appeal.