



Baroness Barran

Parliamentary Under-Secretary of State for the School System
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To interested Peers,

My Lords,

Re: Parental Legal Rights to View School Curriculum Material

Thank you for meeting me on 28 June to discuss your amendment on the important topic of whether we need to give parents further legal rights to view school curriculum material.

I hope it was clear that we are in absolute agreement over the principle that parents should know what their children are being taught, especially in relation to sensitive topics. There are already safeguards in law to secure this. I will cover the detail of the legal position below, but in summary:

- There are clear requirements on schools in relation to providing parents with information about a school's curriculum.
- There are additionally clear expectations in statutory guidance on Relationships and Sex Education in relation to sharing materials, which schools have to have regard to.
- Intellectual property law does not prevent schools from showing materials to parents in person.
- If RSHE providers try to place contractual requirements on schools not to show material to parents, then schools should not sign up with them – doing so could restrict their ability to comply with the statutory guidance.
- This means that reasonable steps to make materials available to parents should not need to be prompted by a Freedom of Information request. While we cannot comment on FoI requests in a blanket way, as each would need to be considered on its individual merits by the school as a public body, the above points should inform the school's consideration of the balance between the public interest in disclosing and withholding information.

The specific requirements in relation to informing parents about the curriculum as a whole are as follows:

- Under the School Information Regulations, 2008, Local Authority maintained schools are required to publish the content of the curriculum each year on their websites, including how parents can obtain further information about that curriculum.

- Academy funding agreements also contain the same requirements, and it is our intention to reflect these in the proposed academy standards, subject to the progress of the Schools Bill.
- Paragraph 32(1)(b) read with 32(3)(c) and para 2 Independent School Standards Regulations 2014, require independent schools (not including academies) to make a written policy on the curriculum available to parents.

In addition, the Relationships Education, Relationships and Sex Education and Health Education (England) Regulations 2019, require all schools to publish a Relationships and Sex Education policy and to consult parents on it. Further to this, the statutory guidance on RSHE states that schools should ensure that they share examples of resources when consulting parents.

I believe that most schools are engaging with parents in an effective and constructive way, but I was concerned to read the examples you provided and to learn that some schools are citing commercial law as a reason for not sharing information, when in fact this should not be a barrier.

There are some things that parents might ask for which could infringe a provider's copyright in educational resources, such as copying an entire resource more widely by posting it on the internet for parents to view or being given passwords to view paid-for materials. However, we are clear that showing resources to parents in person would not infringe an external provider's copyright in the resource. So it is already possible for a school to invite parents to the school to view materials on the premises without any change in the law.

You highlighted that, in some cases, parents requested copies of resources under the Freedom of Information Act (FOIA) 2000, only to have the information withheld under s.43 (Commercial Interests). State funded schools are public bodies for the purposes of the FOIA and would need to consider whether the disclosure of the material requested would or would be likely to prejudice the commercial interests of the resource provider and whether the public interest in withholding the material outweighs the public interest in disclosing it. Where a school is required to disclose a resource under FOIA, they will not breach a provider's copyright in that resource as the Copyright Designs and Patents Act 1988 (CDPA) contains an exemption so that copyright will not be infringed where legislation (such as FOIA) specifically authorises the disclosure of materials.

The department cannot comment on individual cases where schools have applied s.43 but in general we think it is open to question whether providing a copy of a resource to a parent will prejudice the commercial interests of the maker of that resource, where that same resource will anyway be shared with classes of children and is provided to the parent in order to inform or reassure them about the content of lessons delivered. If parents are not satisfied in an individual case, they can complain to the Information Commissioner and then to the first tier tribunal.

A school's relationship with a provider will, of course, depend on the terms of its contract with them but the department would expect schools to avoid entering into any agreement with a provider that seeks to prevent schools from sharing RSHE materials with parents.

I hope that explains why we think the current legal framework to support transparency over curriculum materials is sufficient. The cases you highlight suggest that not all schools understand the requirements and so I am convinced that we need to do more to make it clear to them. In the course of a Backbench Business Committee debate on sex education on 30 June, Robin Walker placed some of the detail of our position on record [Hansard col 189WH]. Further to this, we will write to schools to provide a clear statement of the department's position and clarify the key points of intellectual property law set out above. We will also seek to strengthen the content on sharing materials in the RSHE statutory guidance, when we review it next autumn.

We think this action is an effective and proportionate way to ensure that schools act in a way that we want to see and makes the amendment unnecessary. We would also be concerned about its effects. Introducing a legal right for parents to view all curriculum materials would also put schools at risk of excessive or vexatious requests, which could place a significant burden on them. Legislation that allowed wide rights of access to large volumes of paid for material also risks cutting across the legitimate commercial interests of providers.

I hope that this reassures you that the current legal position strikes the right balance and of our commitment to ensuring that parents must be able to engage constructively with schools and know what their children are being taught.

I will place a copy of this letter in the House library.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Diana Barran', written in dark ink.

BARONESS BARRAN
PARLIAMENTARY UNDER-SECRETARY OF STATE