

The Magic Club

1. RSE Policy

1.1 What is RSE (Relationships & Sex Education)?

RSE is lifelong learning about relationships, emotions, sex, sexuality, and sexual health. It involves acquiring information, developing skills and clarifying attitudes and values (Sex Education Forum, 1999). It helps to build young people's self-esteem and confidence, and creates a moral framework which will guide their decision making and behaviour. RSE also helps to develop a positive view of sexuality and sex and support sexual self-acceptance. It aims to meet the needs of all young people.

1.2 Why is RSE important?

Children and young people say that they want to learn more about sex and relationships. They tell us that their sex education is too little, too late and too biological and does not sufficiently address broader emotional, moral or social issues (Allen, 1987). They also tell us that they would like opportunities to discuss issues such as abortion, LGBT+ issues, and menstruation. They say that they are often ill-prepared for relationships. In addition, they want to discuss feelings and real-life dilemmas.

Children and young people have a right to receive accurate information on matters that affect them. Consequently, they are entitled to receive education which informs them about sex and relationships.

Research evidence shows that comprehensive RSE which involves organisations and individuals in community settings working alongside schools and sexual health services can reduce the negative outcomes of sexual activity including unintended pregnancies and sexually transmitted infections (STIs).

Comprehensive programmes also delay the age at which young people first have sexual intercourse; increase their knowledge and lead to clarification of attitudes and values; and improve the quality of their relationships with partners, family and friends (HE A, 1998; Dicenso et al, 2002).

1.3 How will we approach the delivery of RSE?

Effective work on RSE can take place in a range of ways, for example:

- Proactively, by delivering a targeted RSE programme with specific aims and objectives to a group of young people.

- Reactively, in response to approaches by individual young people for advice and support. In this instance, the youth worker may be able to provide the support needed or may need to refer the young person on to a more appropriate professional.

Delivery in non-formal settings enables workers to reach young people in environments where they feel safe but where risk-taking and potentially health-compromising behaviour may also be taking place.

Youth workers are often best placed to reach marginalised young people who may have slipped through mainstream RSE education in schools, and who are unlikely to access other services. RSE can also be an element in accredited programmes and lead to certificates and other evidence of learning.

Youth work often includes work to meet specific needs, such as those of LGBT+ young people, BME young people and single gender groups.

1.4 Confidentiality

Confidentiality is crucial for building the trust necessary for effective youth work. Case law supports the principle that young people are entitled to have information kept confidential unless there are concerns that they are suffering, or at risk of suffering, serious harm or of causing serious harm to someone else. (See *Safeguarding Policy*)

There is no law requiring workers to disclose to the police, parents or anyone else information about sexual activity below the age of consent, but child protection procedures must be followed if there is any evidence of abuse or exploitation. However, if the child is under the age of 13, they are not legally able to consent to any sexual activity, and therefore any information that such a person was sexually active would need to be acted on. We will encourage young people to disclose to parents/carers and will support them to do this if appropriate.

The aim of the Sexual Offences Act 2003 is to protect the safety and rights of young people. It is not intended to be used to prosecute mutually agreed teenage sexual activity between two young people of a similar age.

Before doing RSE with groups of young people, our youth workers will negotiate a working agreement with participants that includes an understanding of the level of confidentiality offered within the group. It will always be made clear to young people that absolute confidentiality cannot be guaranteed. Young people need to be aware that this also applies in one-to-one situations, where a youth worker may decide to seek advice on sharing information if there are any child protection concerns.

All youth workers, especially those working with young people around sex and relationships issues, will have received training in safeguarding and child protection issues and be clear about their organisation's confidentiality policy and practice. Youth Workers will be supported by managers and other agencies if child protection issues arise.

1.5 Providing Confidential Advice

The Sexual Offences Act 2003 supports the ability of health professionals and others working with young people to provide confidential advice or treatment on contraception, sexual and reproductive health to young people under 16. The Act states that, a person is not guilty of aiding, abetting or counselling a sexual offence against a child where they are acting for the purpose of:

- protecting a child from pregnancy or sexually transmitted infection
- protecting the physical safety of a child
- promoting a child's emotional wellbeing by the giving of advice.

In all cases, the person must not be causing or encouraging the commission of an offence or a child's participation in it. Nor must the person be acting for the purpose of obtaining sexual gratification. This exception, in statute, covers not only health professionals, but anyone who acts to protect a child, for example, teachers, Connexions Personal Advisers, youth workers, social care practitioners and parents.

1.6 Can youth workers direct young people to services offering contraception and sexual health services?

Yes. Youth workers can give young people, including those who are under 16 years old, details of where and how to access local services offering contraception and sexual health services. If a young person is under 16, the youth worker should also encourage them to seek support from their family or someone else they can trust. However, parental permission is not needed if a young person can understand the issues and appreciate the consequences.

The Fraser Guidelines (See Appendix A) were developed to address the specific issue of giving contraceptive advice and treatment to those under 16 without parental consent:

- Is this young person likely to begin or continue having sex with or without contraception?

- If they don't receive either contraceptive treatment or advice, is their mental or physical health, or both, likely to suffer?
- Is it within their best interests to get some advice or condoms from you?
- Have they understood the information and advice you have given them, including the consequences of their choices?
- Can they be encouraged to inform their parents or guardian about the advice they are seeking?

It is also within the youth worker's remit to help a young person to make contact with services offering contraception and accompany a young person to a clinic if they are worried about visiting on their own.

Youth workers are also able to take groups of young people to visit a local contraceptive and sexual health clinic to find out about local services. A visit to a local service is most effective as part of a wider sex and relationships programme as a way of allaying anxieties and improving early uptake of advice.

Wherever possible we will encourage under-16s to inform their parents or carers, and to make information available that young people can share and discuss with parents. However, there is no legislation that requires youth services or other youth organisations to seek parents' permission or to inform them of RSE programmes.

1.7 Can youth workers provide condoms to young people?

Yes. Youth workers may give out condoms to young people, including under-16s. Youth workers providing condoms should have received appropriate training and should work to a policy about condom distribution that has been agreed with management and is understood by young people.

The provision of condoms by youth workers should:

- Be done as part of a broader sex and relationships education and information programme that includes helping young people to resist any pressure to have early sex.
- Complement local service arrangements by the Primary Care Trust for the distribution of free condoms.
- Only involve the supply of condoms that are within their expiry date and marked with the European standard.
- Encourage young people to discuss the issue with their parents, particularly if under 16.

- Always be accompanied by verbal and/or written advice about using condoms correctly, information about STIs and services, and where to access emergency contraception if the condom breaks or is not used.

Appendix A

Gillick Competencies and Fraser Guidelines

When practitioners are trying to decide whether a child is mature enough to make decisions, they often talk about whether the child is 'Gillick competent' or whether they meet the 'Fraser guidelines'. The Gillick competency and Fraser guidelines help people who work with children to balance the need to listen to children's wishes with the responsibility to keep them safe.

Gillick competency

Gillick competency and Fraser guidelines refer to a legal case which looked specifically at whether doctors should be able to give contraceptive advice or treatment to under-16-year-old girls without parental consent. Since then, they have been more widely used to help assess whether a child has the maturity to make their own decisions and to understand the implications of those decisions.

In 1982 Victoria Gillick took her local health authority (West Norfolk and Wisbech Area Health Authority) and the Department of Health and Social Security to court in an attempt to stop doctors from giving contraceptive advice or treatment to under 16-year-olds without parental consent.

The case went to the High Court in 1984 where Mr Justice Woolf dismissed Mrs Gillick's claims. The Court of Appeal reversed this decision, but in 1985 it went to the House of Lords and the Law Lords (Lord Scarman, Lord Fraser and Lord Bridge) ruled in favour of the original judgment delivered by Mr justice Woolf:

"...whether or not a child is capable of giving the necessary consent will depend on the child's maturity and understanding and the nature of the consent required. The child must be capable of making a reasonable assessment of the advantages and disadvantages of the treatment proposed, so the consent, if given, can be properly and fairly described as true consent" (Gillick v West Norfolk, 1984).

Fraser Guidelines

The Fraser guidelines refer to the guidelines set out by Lord Fraser in his judgment of the Gillick case in the House of Lords (1985), which apply specifically to contraceptive advice. Lord Fraser stated that a doctor could proceed to give contraceptive advice and treatment to a girl under 16:

"provided he is satisfied on the following matters:

1. that the girl (although under the age of 16 years of age) will understand his advice
2. that he cannot persuade her to inform her parents or to allow him to inform the

parents that she is seeking contraceptive advice

3. that she is very likely to continue having sexual intercourse with or without contraceptive treatment

4. that unless she receives contraceptive advice or treatment her physical or mental health or both are likely to suffer

5. that her best interests require him to give her contraceptive advice, treatment or both without the parental consent” (Gillick v West Norfolk, 1985).

How is Gillick competency assessed?

Lord Scarman’s comments in his judgment of the Gillick case in the House of Lords (Gillick v West Norfolk, 1985) are often referred to as the test of “Gillick competency”. He said:

“...it is not enough that she should understand the nature of the advice which is being given: she must also have a sufficient maturity to understand what is involved.”

He also commented more generally on parents’ versus children’s rights:

“parental right yields to the child’s right to make his own decisions when he reaches a sufficient understanding and intelligence to be capable of making up his own mind on the matter requiring decision.”

Implications for child protection

Adults working or volunteering with children in any context need to consider how to balance children’s rights and wishes with their responsibility to keep children safe from harm. Key issues to bear in mind include:

- The child’s safety is paramount. Child protection concerns must always be shared with the relevant agencies, even if this goes against the child’s wishes.
- Underage sexual activity is a possible indicator of child sexual exploitation and children who have been groomed may not realise they are being abused.
- Sexual activity with a child under 13 is a criminal offence and should always result in a referral to the safeguarding Duty Team.