



National Council for Curriculum and Assessment
35 Fitzwilliam Square South
Dublin, D02 KH36

RE: Public consultation on Draft Junior Cycle SPHE Short Course Curriculum Specification

17 October 2022

Dear Sir/Madam,

The Irish Human Rights and Equality Commission ('the Commission') welcomes the opportunity to provide its views as part of the National Council for Curriculum and Assessment ('NCCA') consultation on the draft Social, Personal and Health Education ('SPHE') curriculum for the Junior Cycle. The Commission is both the National Human Rights Institution and the National Equality Body for Ireland, established under the *Irish Human Rights and Equality Commission Act 2014* ('2014 Act'). In accordance with its founding legislation, it is mandated to keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights and equality. As the designate Independent Monitoring Mechanism for the UN Convention on the Rights of Persons with Disabilities, the Commission emphasises the obligation on the State to ensure that the SPHE curriculum advances the rights of disabled students.

The NCCA is legally required to comply with its statutory obligation under Section 42 of the 2014 Act (Public Sector Equality and Human Rights Duty); which means that it must perform its functions having regard to the need to eliminate discrimination, promote equality of opportunity and protect the human rights of members, staff, and service users.¹ Section 42(2) requires the NCCA to 'Assess, Address and Report' - to undertake an assessment of the equality and human rights issues pertaining to their purpose and functions; to devise an action plan to address the issues raised in the assessment; and to report annually on progress and achievements. These requirements have to be set out in the NCCA strategic plan (Assess, Address) and reported on in their annual reports.

We note that no assessments or action plans have been set out in the NCCA's Strategic Plan 2022-2025,² and strongly encourage the NCCA to comply with its statutory obligations in line with Section 42 of the 2014 Act.³ When developing and updating curricula, the NCCA should have regard to its obligations under Section 42(1), and include equality and human rights considerations in the design of the curriculum. Our guidance recommends an evidence-based approach to fulfilling requirements under Section 42, informed by equality data and targeted consultation with staff and service users, particularly those from minority groups to ensure that their views are heard.⁴ With regard to the

¹ See [Irish Human Rights and Equality Commission Act, s. 42](#).

² National Council for Curriculum and Assessment, [Strategic Plan 2022-2025](#).

³ Guidance on implementing the Duty is available on IHREC's website. See IHREC, [Implementing the Public Sector Equality and Human Rights Duty](#).

⁴ IHREC, [Implementing the Public Sector Equality and Human Rights Duty](#) (March 2019).

development of the SPHE curriculum, the participation of children, including members of structurally vulnerable groups, is essential to ensure an inclusive and rights-based approach, rooted in the best interests of the child.

We have prioritised the eradication of racism, ableism, sexism and ageism in our Strategy Statement (2022-2024), and have committed to creating momentum for increased action by public bodies and others to address these and other forms of discrimination.⁵ We welcome the framing of SPHE as contributing to inclusivity of ‘all genders, sexualities, ethnicities, religious beliefs / worldviews, social classes and abilities / disabilities’. However, we emphasise the importance of all groups being consistently considered in each of the SPHE Strands.⁶ Furthermore, research preceding the development of the draft curriculum highlights the lack of status of SPHE as a subject.⁷ This should be rectified in the new curriculum by taking a “whole-of-school” approach to SPHE and emphasising the importance of SPHE for a well-rounded, holistic and rights-based education.

We make observations below for consideration by the NCCA and remain available to discuss the information presented in this letter. Dr Iris Elliott Head of Policy and Research is the contact point, iris.elliott@ihrec.ie.

Yours sincerely,



Sinéad Gibney

Chief Commissioner
Irish Human Rights and Equality Commission

⁵ IHREC, [Strategy Statement 2022-2024](#) (2021) p. 15.

⁶ UNESCO has recommended participatory and learner-centred approaches which stimulate critical thinking, See UNESCO, [International technical guidance on sexuality education: an evidence-informed approach \(revised edition\)](#) (2018) p. 87.

⁷ Seline Keating, Mark Morgan and Bernie Collins, [Relationships and Sexuality Education \(RSE\) in Primary and Post-Primary Irish Schools](#) (November 2018) p. 32.

Making Healthy Choices

Many of the learning outcomes under Strand 2 of the curriculum pertain to physical health, while mental health is more substantively dealt with under Strand 4.⁸ This approach should not preclude consideration of mental health as an important aspect of overall health. Discussion about how to make healthy choices should take place in a non-judgemental way, recognising that health outcomes are shaped by social factors, resulting in particular barriers faced by structurally vulnerable groups.⁹ When further developing the learning outcomes in the draft curriculum, the NCCA and Department of Education should ensure the views of ethnic minorities are heard and included, to guarantee the provision of culturally appropriate education on health issues disproportionately affecting them, for example, Female Genital Mutilation.¹⁰

Sexual and Reproductive Health Education

Consultations between the Commission and Irish young people demonstrate dissatisfaction with the current provision of Sexual and Reproductive Health ('SRH') education.¹¹ The UN Special Rapporteur on the right to education has recommended the active involvement of National Human Rights Institutions in the preparation and implementation of SRH curricula.¹² The Council of Europe Commissioner for Human Rights has put forward her position that objective and impartial SRH education does not interfere with the right to freedom of religion.¹³

When developing a new SRH education curriculum, the following considerations should be taken into account:

Compulsory

In its Concluding Observations on Ireland's second periodic report, the UN Committee on the Rights of the Child noted with concern the ability of parents to exempt children from SRH classes, and recommended enhanced access to adolescent-specific reproductive and sexual health information.¹⁴

⁸ See for example NCCA, [Draft Junior Cycle Social, Personal and Health Education \(SPHE\) Short Course Curriculum Specification](#) (May 2022), Learning Outcomes 2.2, 2.3, 4.4, 4.5.

⁹ See IHREC, [Ireland and the Rights of the Child](#) (August 2022) p. 68; World Health Organisation, [Social Determinants of Health](#).

¹⁰ It is estimated that 6,000 girls under the age of 15 and living in Ireland are at risk of female genital mutilation. IHREC, [Ireland and the Rights of the Child](#) (August 2022) p. 47. Akidwa, [Statement to the Joint Oireachtas Committee on Gender Equality](#) (April 2022). The Commission guidance on the Public Sector Duty recommends consultation with minority communities to ensure that public bodies such as the NCCA and Department of Education have had regard to their obligations under Section 42. See IHREC, [Implementing the Public Sector Equality and Human Rights Duty](#) (March 2019).

¹¹ See IHREC, [Ireland and the Rights of the Child](#) (August 2022) pp. 72-73; IHREC, [Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women](#) (January 2017) p. 84; IHREC, [What is life like for women in Ireland in 2016](#) (January 2017) p. 13.

¹² United Nations Secretary General, [Report of the United Nations Special Rapporteur on the right to education: Note by the Secretary-General](#) (July 2010) p. 21.

¹³ Dunja Mijatović, [Comprehensive sexuality education protects children and helps build a safer, inclusive society](#) (July 2020).

¹⁴ UN Committee on the Rights of the Child, [Concluding Observations on the second periodic report of Ireland](#) (September 2006) para. 52; National Council for Curriculum and Assessment, [Relationships and sexuality education- FAQs](#). The Council of Europe Commissioner of Human Rights has also confirmed that international human rights standards on the right to freedom of religion or belief do not entitle parents to withdraw children from sexuality education classes where relevant information is conveyed in an objective and impartial manner; Dunja Mijatović, [Comprehensive sexuality education protects children and helps build a safer, inclusive society](#) (July 2020). See also Children's Rights Alliance, [Civil Society Alternative Report](#) (August 2022) para 169.

The Council of Europe Commissioner of Human Rights has also expressed her view that international human rights standards on the right to freedom of religion or belief do not entitle parents to withdraw children from sexuality education classes where relevant information is conveyed in an objective and impartial manner.¹⁵ Recent ESRI research has also found that 38 per cent of second year students did not receive SRH education, which was linked to the challenges of overcrowded curricula, teacher discomfort, exam pressure and the lack of status of SPHE.¹⁶ The NCCA should ensure that its commitment to compulsory SRH education is reflected in practice.¹⁷

Scientifically accurate and evidence-based

The Special Rapporteur on the right to education has noted the risk of perpetuating discrimination due to reliance on inaccurate information during SRH classes.¹⁸ In the Irish context, the Special Rapporteur on the sale and exploitation of children expressed concern with the ability of teachers to adjust the content of SRH programmes.¹⁹ The Joint Committee on Education and Skills has linked problems in the delivery of SRH classes with a lack of appropriate teacher training, and has recommended SPHE and SRH education accreditation to combat the issue of inconsistent teaching.²⁰

Inclusive

Inclusion is central to a human-rights based approach to SRH education.²¹ The draft SPHE curriculum notes the need for an inclusive approach,²² but specific detail on how the SRH curriculum will be adapted to cater to students with diverse gender and sexual identities, ethnic minority students, or disabled students across all impairment groups is lacking.²³ The Joint Committee on Education and Skills has described current provision of SRH education as adopting a heteronormative perspective,²⁴ which should be countered by factual and non-stigmatising LGBTI+ SRH education.²⁵ While reasonable accommodation for disabled students is mentioned in the draft curriculum, it relates to assessment rather than the content or delivery of the course.²⁶ In addition, research suggests that

¹⁵ Dunja Mijatović, [Comprehensive sexuality education protects children and helps build a safer, inclusive society](#) (July 2020).

¹⁶ ERSI, [Talking about sex and the sexual behaviour of young adults in Ireland](#) (November 2020).

¹⁷ The provision of the equivalent of one class period of SPHE per week at Junior Cycle has been mandatory since 2003. Department of Education and Skills, [Looking at Social, Personal and Health Education: Teaching and Learning in Post-Primary Schools](#) (2013). Relationships and Sexuality has been a part of the SPHE curriculum since 1999. Seline Keating, Mark Morgan and Bernie Collins, [Relationships and Sexuality Education \(RSE\) in Primary and Post-Primary Irish Schools](#) (November 2018) p. 9.

¹⁸ United Nations Secretary General, [Report of the United Nations Special Rapporteur on the right to education: Note by the Secretary-General](#) (July 2010) para 45.

¹⁹ Human Right Council, [Visit to Ireland: Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material](#) (March 2019) para. 72.

²⁰ Joint Committee on Education and Skills, [Report on Relationships and Sexuality Education](#) (January 2019) p. 19.

²¹ Inclusion is a central tenet of the Commission's Strategy Statement, which prioritises the eradication of racism, ableism and sexism. IHREC, [Strategy Statement 2022-2024](#) (2021) 15.

²² See NCCA, [Draft Junior Cycle Social, Personal and Health Education \(SPHE\) Short Course Curriculum Specification](#) (May 2022), p. 2.

²³ As the the designate Independent Monitoring Mechanism for the UN Convention on the Rights of Persons with Disabilities, issues of inclusion of disabled young people is a key priority for the Commission. We have repeatedly called for ableism to be addressed through institutional reform. IHREC, [Strategy Statement 2022-2024](#) (2021) p. 15.

²⁴ Joint Committee on Education and Skills, [Report on Relationships and Sexuality Education](#) (January 2019) pp. 20-23.

²⁵ Learning outcome 1.4 should inform the provision of LGBTI+ SRH education. See NCCA, [Draft Junior Cycle Social, Personal and Health Education \(SPHE\) Short Course Curriculum Specification](#) (May 2022) p. 13.

²⁶ NCCA, [Draft Junior Cycle Social, Personal and Health Education \(SPHE\) Short Course Curriculum Specification](#) (May 2022), p. 19. See also IHREC, [Ireland and the Rights of the Child](#) (August 2022) p. 65; Joint Committee on Education and Skills,

Traveller young people are at an increased risk of poor sexual health outcomes.²⁷ An inclusive SRH curriculum should recognise and respond to the additional needs of structurally vulnerable groups.

Non-judgemental

Seeking the views of young people and giving them due weight is a key dimension of children's rights. Recent data indicates that the current system of SRH education does not create the conditions for relaxed, comfortable and candid conversations between students and teachers.²⁸ The integration of 'dialogue' as a cross-cutting element of the curriculum should be accompanied by changes in delivery to ensure that the classroom is an environment where all young peoples' views are heard and respected as active contributors to the conversation.

Comprehensive

The Special Rapporteur on education has noted that human-rights based approaches to SRH education must go beyond educating to prevent adverse health outcomes.²⁹ The Commission has previously raised concerns about gaps in the provision of SRH education,³⁰ and recent data suggests that young people are turning to social media, the internet, and pornography to fill these information gaps.³¹

Discussions about comprehensive SRH education are indelibly linked to principles of diversity and inclusivity. A holistic SRH education curriculum must respond to the needs of all young people, including structurally vulnerable groups. Data on current gaps should inform changes to the SPHE curriculum. The new curriculum should collect data on gaps in SRH education provision and engage with this data in periodic reviews.³² This data system should be informed by EU Equality Data Resources³³, the forthcoming Equality Data Strategy³⁴ and the National Statistics Board's Strategic Priorities for Official Statistics 2021-2026³⁵.

Discussion about unhealthy relationships is key to a comprehensive SRH curriculum. SRH education should be informed by the Government's zero tolerance approach to Domestic, Sexual and Gender

[Inclusion Ireland Opening Statement on the review of Relationships and Sexuality Education \(RSE\) by the Joint Committee on Education & Skills](#) (May 2018).

²⁷ Ann Nolan, [School-based relationships and sexuality education \(RSE\): lessons for policy and practice](#) (2018) p. 4.

²⁸ In this study, only 23 per cent of students reported feeling confident talking about sex with their teachers. Youth Work Ireland, [Sexual Health Youth Consultation Findings](#) (April 2018).

²⁹ United Nations Secretary General, [Report of the United Nations Special Rapporteur on the right to education: Note by the Secretary-General](#) (July 2010) para. 61.

³⁰ IHREC, [Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women](#) (January 2017) p. 84.

³¹ Youth Work Ireland, [Sexual Health Youth Consultation Findings](#) (April 2018). The survey also found that information from teachers about SRH education is less useful to female students than to male students.

³² The Commission has repeatedly highlighted the considerable shortfalls in equality data in Ireland. See IHREC, [Ireland and the International Covenant on Civil and Political Rights](#) (June 2022) p. 10; IHREC, [Ireland and the Rights of the Child](#) (August 2022) p. 18.

³³ These resources include: The European Handbook on Equality Data, Guidelines on the collection and use of equality data (2018), Guidance note on the collection and use of equality data on racial and ethnic origin (2021), Forthcoming Guidance note on the collection and use of Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) data (2023). [Equality data collection | European Commission \(europa.eu\)](#)

³⁴ [OECD Scan: Equality Budgeting in Ireland](#), see Path Forward section, Action 9, p22 and 26.

³⁵ [NSB Statement of Strategy 2021-2026.pdf](#) see 3.4 wellbeing and social cohesion, p27.

Based Violence³⁶ and should convey strong messaging in favour of equality, and promotion of non-gender stereotyped roles, mutual respect and consent.³⁷

Emotional Wellbeing

The inclusion of a strand dedicated to emotional wellbeing is an important addition to the SPHE curriculum. The Commission has raised concerns about the significant lack of appropriate children and young people's mental health services in Ireland.³⁸ The Commission has also noted the negative impact of the pandemic on the mental health of children and young people,³⁹ including minority ethnic children and Traveller children.⁴⁰

Bullying is widely experienced by children at school, in other youth settings, and online.⁴¹ The Commission has called for the State to immediately set a clear timeline for the publication and implementation of the new Action Plan on Bullying and Cyberbullying.⁴² SPHE classes are a safe and appropriate space to discuss abusive and bullying behaviour, however, it is essential that different forms of bullying are comprehensively and appropriately addressed by the curriculum, taking an intersectional approach. There are particular issues with identity-based bullying experienced by children and young people from ethnic minorities,⁴³ LGBTI+ children and young people,⁴⁴ and disabled children and young people.⁴⁵ Consultation with these groups is critical to ensure a culturally

³⁶ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence](#) (June 2022).

³⁷ See IHREC, [Submission to the Citizens' Assembly on Gender Equality](#) (March 2020) pp. 9-10; Dunja Mijatović, [Comprehensive sexuality education protects children and helps build a safer, inclusive society](#) (July 2020); National Women's Council, [Submission on the Draft Junior Cycle SPHE Curriculum](#) (September 2022); Human Right Council, [Visit to Ireland: Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material](#) (March 2019) para. 71.

³⁸ IHREC, [Ireland and the Rights of the Child](#) (August 2022) p. 73.

³⁹ See Chapter 2 of Professor C. O'Mahony, [Fourteenth Report of the Special Rapporteur on Child Protection](#) (2022); [The Growing Up in Ireland study reported in March 2021 that one in five 12 year olds scored in the low mood range](#); ESRI, [Growing Up in Ireland: Key findings from the special COVID-19 survey of Cohorts '98 and '08](#) (2021), p. 6.

⁴⁰ IHREC, [Ireland and the Rights of the Child](#) (August 2022) pp. 74-75.

⁴¹ IHREC, [Ireland and the Rights of the Child](#) (August 2022) p. 48; Children's Rights Alliance, [Report Card 2022](#) (2022); Anti-Bullying Working Group, [Action Plan on Bullying](#) (January 2013); CyberSafeKids, [Annual Report 2020](#) (2021); IHREC, Commission Conversation on Racism and Racial Discrimination with Young People of African Descent in the Greater Dublin Area, 31 March 2021; BeLonG To Youth Services, [The 2019 School Climate Survey: The experience of lesbian, gay, bisexual and trans young people in Ireland's schools](#) (2019).

⁴² IHREC, [Ireland and the Rights of the Child](#) (August 2022) p. 48.

⁴³ In conversation with the Commission, young African leaders noted that current anti-bullying policies are too broad to deal adequately with racist bullying. They cited the need for targeted anti-racism policies to co-exist with general anti-bullying policies, and for a zero-tolerance approach to racism and discrimination in the Irish education system. IHREC, Commission Conversation on Racism and Racial Discrimination with Young People of African Descent in the Greater Dublin Area (March 2021). See also IHREC, [Developing a National Action Plan Against Racism: Submission to the Anti-Racism Committee](#) (August 2021) p. 40; Malgosia Machowska-Kosiack and Maria Barry, A report on issues facing second-generation ethnic minority young people in Ireland (forthcoming).

⁴⁴ In 2019, exclusion, verbal, physical and sexual harassment was experienced by 86%, 77%, 38% and 43% of LGBTI+ survey respondents respectively. See IHREC, [Ireland and the Rights of the Child](#) (August 2022) p. 48; BeLonG To Youth Services, [The 2019 School Climate Survey: The experience of lesbian, gay, bisexual and trans young people in Ireland's schools](#) (2019), p. 7. Anti-Bullying Working Group, [Action Plan on Bullying](#) (January 2013).

⁴⁵ Disabled children are up to three times more likely to be bullied and up to six times more likely to experience violence or abuse when compared with their peers. See IHREC, [Ireland and the Rights of the Child](#) (August 2022) p. 48; Inclusion Ireland, [Opening Statement to the Oireachtas Joint Committee on Education, Further and Higher Education, Research, Innovation & Science](#) (2021), p. 2.

sensitive and inclusive curriculum. Regular review of bullying policies is also necessary so that the curriculum can keep pace with technological advances.

Commission research indicates that normalised discrimination, in the form of microaggressions, is commonly experienced by ethnic minority young people.⁴⁶ Ambitious approaches are necessary to address bias and exclusion of ethnic minority students in a sustained and comprehensive way.

⁴⁶ See IHREC, [Ireland and the Rights of the Child](#) (August 2022) p. 77; IHREC, [Developing a National Action Plan Against Racism: Submission to the Anti-Racism Committee](#) (August 2021) p. 40; Malgosia Machowska-Kosiack and Maria Barry, A report on issues facing second-generation ethnic minority young people in Ireland (forthcoming).