



‘Gender Questioning Children’ Guidance for Schools

Trans Learning Partnership Consultation Response

Structure and Overall Guidance

Do you think the structure of the guidance is easy to follow?

No

If you answered no, how could the structure of the guidance change to make it easier to follow?

- The guidance omits critical information for schools, which lays important foundations for them to be able to understand the group of pupils the guidance is about. This makes the guidance harder to understand. These omissions include:
 - No mention of the Equality Act and the protected characteristic of gender reassignment - which, by making a request to a school, a pupil will immediately be covered by as this is ‘proposing to undergo’ a transition. This would provide schools with the fundamental knowledge necessary to protect and support trans pupils and contextualise their duties. Significantly, this omission itself is likely unlawful;
 - No information on handling transphobic bullying and harassment from staff and peers;
 - No information on pupils who have already transitioned, focusing instead on pupils who are just coming out;
 - No information on more tailored support for trans pupils with mental health needs or SEND;
 - No consideration of the impact of *not* allowing a pupil to socially transition: the [Interim Report of the Cass Review](#) highlights that inaction is not neutral.
- There is no easy read version of the guidance, making it inaccessible, particularly to young people, who this guidance is about.

- The guidance fails to clarify that decisions made about a pupil's social transition could potentially be unlawful, which makes this guidance itself unlawful, and heightens the risk that schools will unlawfully discriminate against trans pupils.

Does this guidance provide practical advice to support schools and colleges to meet their duties effectively?

No

If you answered no, how could we improve deliverability placed on schools and colleges whilst still providing for schools to meet their duties?

- There is no information on the Equality Act and the protected characteristic of gender reassignment.
 - Schools are therefore set up to fail as they will not understand the responsibilities they have.
 - Much of the guidance stands in direct contradiction to the Equality Act, meaning that schools will have to choose between delivering on the guidance or their legal duties: there are a number of areas in the guidance where meeting both is impossible.
 - This includes blanket bans on single-sex spaces, which the Equality Act states must be considered on a case-by-case basis, through proportionate means to achieve a legitimate aim.
 - The difference in treatment between cis and trans pupils could be discriminatory.
- The guidance fails to give information from Keeping Children Safe in Education.
 - This statutory guidance states that being LGBTQ+ is not an inherent safeguarding concern. The framing of the guidance under consultation, e.g., discussions around 'impacts on other pupils,' inappropriately implies there is an inherent safeguarding risk.
 - Risk of harm to LGBTQ+ pupils can result from bullying and abuse, which can come from peers, school staff, and family members. The guidance fails to provide information on how to safeguard trans pupils from these risks, and encourages schools to take various actions that could instead put trans pupils at increased risk of harm.

- There is not enough clarity about who 'all relevant staff' are in the guidance under consultation, which could result in information being shared that goes beyond the statutory requirements of KCSIE, and could constitute data breaches.

Responding to requests and engaging parents

Does this section provide enough detail to help schools and colleges support children?

No

If you answered no, in which of the following areas do schools and colleges need further guidance to support a child?

[All areas]

- Trans pupils are protected by the Equality Act regardless of age - schools have no legal right to refuse a child's request to transition, even at primary age.
- Nearly [half](#) of trans young people experience [familial abuse](#). The guidance ignores the safeguarding risks of engaging a young person's parents, or proceeding where a pupil's parents present a safeguarding risk.
- 'Watchful waiting' can be harmful, and ignores that a pupil will have given the decision careful thought before speaking to their school. Requiring further waiting for the comfort of adults will cause harm to pupils.
- The guidance presumes disclosure to parents, ignores data protection and privacy rights of the pupil, and doesn't consider that this may be the first time the parents become aware of their child's identity.
- The guidance fails to explain that schools must consider, on a *case-by-case basis*, whether there is a lawful basis to disclose information to parents, the extent of disclosure, and whether disclosure is necessary for safeguarding or data protection. The guidance doesn't explain schools must articulate these good reasons and must be assessed against the best interests and privacy rights of the pupil.
- The guidance does not discuss the weight of the trans pupil's views, how this is impacted by age, or how to handle a request that their identity be kept confidential.
- Statutory guidance from the [ICO](#) about data sharing and children is overlooked, as is the school's obligation to carry out an individual risk assessment before disclosure.

Think about the points outlined for schools and colleges to consider on pages 9-11 regarding making decisions about how to respond to requests for social transition. Are these points helpful?

No

If you answered no, what considerations would be more helpful for schools and colleges to consider? For example, when assessing whether to support a child wishing to socially transition, do you think different weight should be given to the views of parents, the age of the child, the long- and short-term impacts on the child, the impact on other children, and any relevant clinical or medical advice?

- Greater weight must be given to pupils, in line with the [statutory approach](#) of centring the best interests of children and the general principles of the [UN Convention on Child Rights](#).
- Nearly [half](#) of trans young people have experienced familial abuse, showing this is not 'exceptionally rare' as the guidance states. This high rate of abuse must be considered as a safeguarding issue when considering whether to approach a pupil's parents, and should require a pupil's knowledge and consent.
- School staff do not have the knowledge or qualifications to make decisions based on medical information. No advice is given to schools on how to securely store this sensitive data, if it is shared.
- Research consistently shows that supporting a young person to socially transition has long-term mental health [benefits](#) and acts as a protective factor against [suicide](#). This remains true even when an individual chooses to re- or [detransition](#).
- The guidance must not allude to pseudoscientific concepts. For example, the guidance encourages schools to consider whether a child has been 'influenced by peers or social media.' There is no evidence that this happens, and instead seems to allude to the widely debunked and pseudoscientific idea of 'Rapid Onset Gender Dysphoria.'
- The guidance fails to include schools' Public Sector Equality duty to 'have due regard' for 'the need to eliminate discrimination' towards trans pupils, and the need to 'foster good relations' between cis and trans people. Framing trans pupils as a risk to other pupils actively fosters poor relations between these groups.

Registration of name and sex

Does this section on page 12 provide enough detail for schools and colleges to ensure each child is recorded correctly and according to the Education Act 1996, Pupil Registration (England) Regulations 2006, GDPR and the Data Protection Act?

No

If you answered no, what further information should be included to help schools and colleges?

- The guidance does not provide enough clarity around the registration of names for children who have legally changed their name through deed polls or statutory declarations. Schools would benefit from clarity that these are the names that must be registered, and refusing to do so would mean recording legally inaccurate information.
- We are not aware of any reason, legal or otherwise, that a child's chosen name and gender cannot be recorded on the admissions register.
- The guidance does not clarify who the 'all relevant staff' includes that must be aware of a trans pupil's assigned sex. Without this clarification, this information - considered sensitive data under data regulations - could be shared inappropriately and may therefore create data breaches. Schools need clear information about the data regulations that relate to trans people's data and how this must be handled carefully.
- The guidance does not provide any evidence to support the claim that it is necessary to know a child's assigned sex at birth in order to safeguard them.

Changing names

Does this section on page 12 provide enough detail for schools and colleges to respond to a child's request to change their name?

No

If you answered no, in which of the following areas do schools and colleges need further guidance to a child's requests to change their name?

[All areas]

- The guidance fails to provide advice to schools on changing the names of pupils in their register when their name has been legally changed. This is possible for anyone

under 16 with parental permission, and for anyone over 16 without parental permission.

- The guidance must be clearer that treating a trans pupil's request to be known by another name should not be treated differently than the same request from a cis pupil, and that treating these differently could constitute discrimination. Further, schools need more support in understanding that consistent refusal to use a trans pupil's chosen name where there is no refusal for this with cis pupils could constitute discrimination.
- The guidance does not support schools in assessing the best interests of the child in regards to changing their name. Research shows that supporting name changes for trans young people has a positive mental health benefit and [reduces](#) suicidal ideation.
- There is no information clarifying that data relating to people's trans status is often considered 'special category data', and as such must be handled carefully. This means that sharing a trans pupil's legal name instead of their chosen name could in some cases constitute a [data breach](#).
- Blanket policies that take a neutral approach, such as refusing all requests to be known by different names, could still be discriminatory due to disproportionate impact. Schools will also struggle to justify refusing a pupil's preferred name because there is no evidence that being known by another name is in any way harmful to young people.

Pronouns

Does this section on page 13 provide enough detail for schools and colleges to respond to a child's requests to change their pronouns?

No

If you answered no, in which of the following areas do schools and colleges need further guidance to respond to a child's request to change their pronouns?

[All areas]

- The guidance inappropriately gives a child's decision to change their pronouns to the school. This sets a clear and worrying precedent regarding autonomy.
- There is no evidence that changing pronouns has any impact on other people, and the inclusion of this in the guidance is likely to seed or encourage prejudicial attitudes in staff.

- Schools do not have the right to 'refuse a request' for a child to change their pronouns. While individual staff and peers may refuse to use the correct pronouns, repeated uses can constitute bullying, and could be used as evidence in cases of discriminatory actions by schools towards trans pupils. Schools have no control over a pupils' pronouns and the guidance must reflect this. Furthermore, repeated misgendering of a pupil by a teacher can lead to grievances against staff and schools.
- There is no evidence for the guidance's claim that primary school pupils should not be able to change their pronouns. The protected characteristic of gender reassignment covers individuals regardless of age: therefore, the guidance could be considered to be discriminatory based on both gender reassignment and age. This has also been noted in the EHRC's [technical guidance](#) for schools.
- There is no guidance on how to handle transphobic bullying from staff and pupils.
- Refusal to use correct pronouns could be discrimination if trans pupils are treated differently. A blanket policy of refusal, including that in the guidance around primary school pupils, would be difficult to justify and therefore likely discriminatory, especially if there is evidence of harm.

Single-sex spaces (toilets, changing rooms and showers and boarding and residential accommodation)

Does this section in pages 14 and 15 provide enough detail for schools and colleges to respond when a child who is questioning their gender makes a request to use facilities designated for the opposite sex?

No

If you answered no, in which of the following areas do schools and colleges need further guidance?

[All areas]

- Schools need more accurate guidance to support and protect trans pupils. [Research](#) consistently shows that 'bathroom ban' policies that require trans people to use the toilets of their assigned sex do [not](#) improve safety for cis people, and increases risk of harm to trans people.
 - Trans pupils face higher risks of violence when forced to use toilets that do not align with their gender. During this consultation process, a trans teen in

[Oklahoma](#) was subjected to a violent assault in the school toilet that aligned with their sex, and ultimately died. This is an example of the risks posing trans young people. Given the stabbing of two [trans teens](#) within the space of a year in the UK, schools need robust guidance that will protect the safety of trans pupils, who are significantly more vulnerable to transphobic violence.

- Schools risk discriminating against trans pupils under the Equality Act if they follow this guidance, as the Act only allows proportionate exclusion for a legitimate aim.
- Schools need support to understand the risks of excluding trans pupils from using the appropriate toilets, such as trans pupils choosing not to use any toilets. This is a common problem known within the trans community, which has been [found](#) to increase the risk of urinary tract infections. Repeated infections of this type can have lifelong consequences on the bladder and kidneys.
- The guidance uses the language of 'must' in this section, implying this is a legal duty where it is not.

Think about the circumstances provided in the guidance on pages 14 and 15, outlining the option for schools and colleges to find alternative facilities. Does the guidance provide enough support to help schools and colleges determine how to offer alternative facilities?

No

- Schools need further support understanding their duties regarding the Equality Act. A blanket exclusionary policy could be discriminatory, and schools would need to justify these measures as proportionate. The guidance fails to make the legal position clear to schools.
- There is no support for schools to determine how to provide appropriate facilities to a trans pupil who has been undergoing transition for a while, particularly medical transition.
- There is no support provided for schools to make decisions when limited by logistic or financial resources, such as a lack of alternative facilities, and a lack of funds for them.
- The guidance needs to be clearer about what risks schools need to be mitigating. For example, trans pupils can be at higher risk of violence in these spaces.

Does this section provide enough detail for schools and colleges to support children who do not wish to use accommodation that is designated for their sex in relation to boarding and overnight accommodation?

No

If you answered no, in which of the following areas do schools and colleges need further guidance?

- The guidance is lacking in this area. It gives no indication as to what the appropriate alternatives could be, and how these can be safely organised. In particular, there needs to be consideration given to trans pupils with other needs: for example, a trans pupil who may also be hearing impaired should not be placed in a room on their own with the reliance on hearing for safety.
- It would be hard for schools to justify this blanket ban, as it appears in direct contradiction with the Equality Act, which states that such decisions must be proportionate for a legitimate aim.
- There is no support for schools facing logistic or budgetary challenges with finding alternatives.
- The guidance does not give enough due attention for the need to keep trans pupils safe, who may be vulnerable to bullying and violence in these situations.

Uniform

Does this section on page 16 provide enough detail for schools and colleges to respond to a gender-questioning child who makes a request in relation to uniform?

No

If you answered no, in which of the following areas do schools and colleges need further guidance to respond to a gender-questioning child, who makes a request in relation to uniform?

[All areas]

- Schools should be encouraged to enact gender-neutral uniform policies, which would be a positive move towards reducing sexist assumptions and stereotypes around sex and gender. Such a policy would therefore allow freedom and flexibility for all students.

A mandated sex-segregated uniform could be considered unlawful discrimination because of the disproportionate distress a trans pupil would experience.

- Schools need to be consistent in their treatment of trans and cis pupils to avoid discrimination. This means that if schools are required to obtain permission from parents about uniform changes, then this must also be the case for cis pupils.
- The Department of Education's [guidance](#) on school uniforms expects schools to develop their uniform policy with mindfulness towards protected characteristics. This should be highlighted in the guidance, with examples of what this could look like. For example, schools could give all pupils a choice of items that reflect gendered expressions, religious requirements, and access needs for disabled people.
- The guidance should clarify that schools must not punish a pupil for wearing a uniform that does not reflect expectations based on their assigned sex, if the uniform is still in line with school policy (e.g., if a trans girl chooses to wear a skirt without discussion with the school first).
- The guidance needs to give schools more support in navigating uniform decisions around, for example, swimwear. Care must be taken to ensure that policies are not enacted that would essentially exclude trans pupils from safely taking part in all school activities.

Physical education and sport

Does this section on page 17 provide enough information on what to do if a gender questioning child asks to participate in a certain sport or activity with the opposite sex?

No

If you answered no, in which of the following areas do schools and colleges need further guidance to support children taking part in PE or sport?

[All areas]

- There is no guidance to help schools navigate this decision-making process. There is no clarification on what level of physicality or contact is deemed safe. Schools will be left to make their own decisions, which will likely be inconsistent between schools and decision-makers within schools. Furthermore, the national governing bodies schools are encouraged to defer to are often regulating only for professional and elite sport, not school PE lessons.

- [Exclusion](#) from sport has a negative impact on trans pupils' mental health, while inclusion improves mental health. Among a population known to experience poor mental health, it is vital that all steps possible are taken to support good mental health.
- There is not enough information to support trans pupils undertaking sport qualifications with a performance component. The DfE provides a [list](#) of approved sports in which qualifications can be gained. Many of these sports, under this guidance, would be trans exclusionary. The Department must provide guidance on how schools can support trans pupils to engage with these sports for qualifications. Failing to do so could be discriminatory, restricting trans pupils' access to certain qualifications.
- PE is a curriculum requirement up to 16. If schools are unable to include trans pupils in this, they will be failing them and their duties.
- The Public Sector Equality Duty requires the advancement of opportunities, working to facilitate inclusion over exclusion. This guidance focuses on exclusion and does not provide schools with advice or support on how to make sport more inclusive for trans pupils.

Think about the circumstances provided in the guidance on page 15, outlining the need for fairness and safety in PE or sport. Does the guidance provide enough support to help schools and colleges determine what is fair and safe?

No

If you answered no, what further support should be included to help schools and colleges determine what is fair and safe in PE or sport?

- Schools must be encouraged to take an inclusion-first approach, in line with their Public Sector Equality Duty. The guidance should work to consider how trans pupils, like all other pupils, can safely engage with sport and physical education. It should be emphasised that the goal is to develop healthy relationships with one's body and exercise, and this must be prioritised for all pupils.
- The guidance considers sex to be the singular attribute affecting safety and fairness in sport. Consideration must also be given to the role of technique, oversight from staff, unequal access to training and funding, access to nutrition and leisure time. The lack of evidence to justify this blanket exclusionary approach will make schools' jobs impossible.

- The guidance makes blanket assumptions about trans pupils, without considering the wide varieties of experiences. While some pupils may only have transitioned socially, some may have accessed medical transition, and as a result their physical make up could be very different to those of their assigned-sex peers. The guidance fails to support schools in making appropriate decisions for trans pupils, which must be on a case-by-case basis.

Single-sex schools

Does the guidance on the application of the Equality Act to admissions to single sex schools on page 18 provide enough information to support single sex schools in making decisions about the admission of children who are questioning their gender?

No

If you answered no, which of the following areas do schools and colleges need further guidance to support effective decisions on the admission of children who are questioning their gender?

[All areas]

- The guidance needs to be clear that single-sex schools cannot remove a pupil from their register because they are transitioning.
- The guidance needs to give schools further support on decision-making regarding accepting a trans pupil. For example, if a girls' school is making a decision on accepting a trans boy, schools would need to consider the impact being in that environment may have on the boy's mental and physical health, whether there are appropriate facilities to support him, and whether there is a risk of transphobic bullying.
- Schools also need more general support around supporting trans pupils in a single-sex environment that does not match their gender. The guidance should provide information on the challenges the pupil may face, what support they may need, and how safe they will be in the school environment. This should also include clear information on handling transphobic bullying.

Public Sector Equality Duty

Do you have any comments regarding the potential impact of the guidance on those who share a protected characteristic under the Equality Act 2010, whether negative or positive? How could any adverse impact be reduced and are there any other ways we could advance equality of opportunity or foster good relations between those who share a protected characteristic and those who do not?

- The guidance fails to mention the protected characteristic of gender reassignment, which provides the protections for the young people this guidance is about. This will lead to schools discriminating against trans young people as a result due to the lack of relevant information, failing in their Public Sector Equality Duty. It is inherently unfit for purpose.
- There is no consideration of how some of these proposals could negatively affect other pupils, for example, trans pupils will likely need to use disabled toilets more often, potentially having an adverse impact on other disabled pupils where these facilities are limited.
- The guidance does not give enough clarity on how to balance the needs of different protected characteristics. In particular, there needs to be firm [clarity](#) that holding a belief that is considered a protected characteristic does not allow for discrimination and harassment of other holders of protected characteristics due to those beliefs. Failing to clarify this would lead to schools failing in their Public Sector Equality Duty, and would be detrimental to any good relations between groups.
- The Government may be in breach of their Public Sector Equality Duty by publishing this guidance. By refusing to acknowledge the existence of young trans people, while also using language such as 'gender questioning children', 'contested belief,' and 'gender identity ideology,' which shows clear contempt and prejudicial attitudes towards trans people. This fosters animosity, rather than good relations.

General

Do you have any comments on the overall approach of the guidance?

Yes

- The guidance takes an inappropriately hostile approach to trans pupils. In restricting the autonomy and legal rights of trans pupils in schools, a dangerous precedent is set that could affect all pupils.

- Social transition is a personal journey, and involves small but meaningful changes to how someone shows up in their life. Framing this as something that requires 'permission' from schools is absurd. Cis pupils would not expect schools to need parental permission to change their hairstyle or to use nicknames: singling out trans pupils in this way is harmful, impinges on personal freedoms, and could be discriminatory.
- It is astounding that the most vital protection in legislation - the protected characteristic of gender reassignment in the Equality Act - has failed to be mentioned in this guidance. This guidance is clearly unfit for purpose, failing to provide schools with the most basic legal groundwork to ensure that trans pupils are protected.
- The guidance takes an approach that assumes that schools will only need to interact with trans pupils when they initially come out, without considering the needs of pupils who are already out. It also makes the general assumption that parents will not be supportive of their child, which is not accurate in our experience. The guidance should be rewritten to reflect these realities, as it is currently clear that this has been written without any knowledge of who trans people are, how we live our lives, and how we interact with the world.

Do you have any further comments you would like to share on the draft guidance that have not been captured above?

Yes

- The guidance does not recognise trans people, and therefore does not provide any accurate, vital information about trans identities and the range of forms these can take, for example, non-binary and genderfluid identities. This omission will leave schools without key tools to navigate their pupils' requests.
- There is no information about the options available to trans pupils in regards to their names on qualifications. Generally, having their correct name will require a formal name change - this information should be included in the guidance so staff can further support their pupils.
- There is not enough information on trans people's data often being considered 'special category data' under data regulations, and what this means for how this data is handled. Furthermore, there are areas of the guidance that may breach these data requirements.

- The 2023 Youth Voice census [found](#) that 100% of trans young people do not feel welcome at their secondary school, compared to just 9.7% of cis pupils. This is already damning, and this guidance will only exacerbate this.