

# *Breaking Down the Government Guidance: Supporting transgender young people in schools: guidance for Scottish schools*

*Advice notes to support parents and teachers who are concerned about the Scottish Government's current guidance and the implication this will have on children.*

*N.B – We have used resources from For Women Scotland, Transgender Trend, Sex Matters and Safe Schools Alliance to develop this document.*

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## Key Points:

1. No child is “born in the wrong body” or “Assigned a gender/sex at birth”. Every child should be free to express themselves. This does not change a child’s sex or the fact that everyone has a sex which is observed and recorded.
2. A child who identifies as a different gender to their sex has not legally changed sex. Under the 2010 Equality Act, they remain protected against discrimination based on their sex, as well as against discrimination based on the protected characteristic of “gender reassignment”.
3. Children shouldn’t feel that they must act like a stereotypical girl or boy to fit in at school. Individual students should be treated fairly and with sympathy and support.
4. All policies must be in line with safeguarding. It will never be consistent with safeguarding to keep a child’s sex secret from peers or teachers.
5. Schools should make clear that all pupils are welcome to share single-sex facilities with children of the same sex, but not to share facilities designated for the opposite sex.
6. All bullying and harassment should be tackled.
7. Where single-sex facilities are provided, such as in sports and changing rooms, policies and rules should be applied consistently and unambiguously.
8. Alternative single-occupancy unisex facilities are an appropriate alternative for any child who wants more privacy, and would accommodate those who experience gender dysphoria
9. Schools should make clear that everyone is included and valued. It is not “transphobic” to recognise that everyone has a sex, and to have sex-based rules were justified.

## Breaking down the content:

### 1. Child Wellbeing and Protection

#### **“Being transgender is not a child protection or wellbeing concern in itself”**

- This fails to acknowledge the potential aetiology of gender dysphoria which may be associated with protection and wellbeing concerns.
- If children are subject to social contagion and inappropriate encouragement from material in schools, from peers or online, to view a change of gender as a relatively straightforward response to feelings of unhappiness then it is a child protection issue.
- A structural rather than individualistic approach to the protection of children examines the social forces that impact on children including factors such as misogyny, homophobia, gender stereotyping and inequalities. Where a sudden increase in children expressing the wish to change gender is observed then it would be a protective response to interrogate the circumstances fuelling such trends.

**“If a young person comes out to you, it’s also important not to deny their identity, or overly question their understanding of their gender identity. Teachers can of course ask reflective questions that allow young people to express themselves, explore their gender identity and identify their needs”.**

- We agree that these are very important points, but they also leave it very much up to the teacher to decide how to ask ‘reflective questions’. In the current climate where accusations of transphobia are very common and can have serious career consequences it can be anticipated that teachers will require considerable support to feel confident in providing vital reflective space for children

## 2. Recognition and development of gender identity

**“If a young person in the school says that they now want to live as a boy although their sex assigned at birth was female, or they now want to live as a girl, although their sex assigned at birth was male, it is important to provide support and listen to what they are saying....**

- This section of the guidance is underpinned by what should be described as a belief or ideology that sex is assigned at birth and that gender identity can be different. This is highly contest ideology and is premised on a factual inaccuracy.
- What is accurate and supported by decades of child development research is that children go through stages of development in which they begin to link their biological sex with expectations of social expression of their sex (what is described sociologically as ‘gender’). This section contains helpful messages about the importance of not reinforcing traditional gender stereotypes.
- There is an argument that a focus on that aspect would vastly minimise the likelihood of a child feeling some form of gender dysphoria. No definition is given of ‘persistent or insistent’ and this statement could be seen as at odds with the suggestion in the earlier statement implying swift acceptance of a child’s statement of the wish to change.
- It also fails to acknowledge the possibility that a child is experiencing same-sex attraction and experiencing internalised or external homophobia. Making these kinds of decisions is placing huge demands upon teachers and school-based counsellors who may not have the kind of training on child development required to understand the power of stereotyping and the power of regressive gender-role norms.

### 3. Working with Parents, carers, and families

**“The UNCRC explicitly recognises the central role played by parents and families in ensuring that children grow up healthy, happy and safe”.**

- This section does not address what teachers and schools should do if a parent disagrees with the child’s decision. It implies that parents need to be supported to accept the decision. This is a highly contentious area and could leave teachers and schools open to legal action.
- Parents are members of the general public, the vast majority of whom are not fully aware of the extent to which gender ideology has moved beyond the Equality Act in guidance to schools. There is not a social consensus on the issue which leaves schools exposed if they act on the law as some wish to be as opposed to how it is.
- The continued use of highly contested statistics about the dangers of suicide if parents do not support their child is misleading and very dangerous. It is known that children can be vulnerable to suggestions that they may feel suicidal, and graphics as in this guidance are highly risky to children’s wellbeing.

**“GTC Scotland’s Code of Professionalism and Conduct...work positively with pupils, colleagues, parents and carers in an open, inclusive and respectful way”**

- There are aspects of the guidance which it could be argued are not sufficiently inclusive of parents and carers.

***Keeping secrets about sex makes a child vulnerable.*** *Lying about a child’s sex to their peers and teachers locks the child into an extreme form of social transition, which makes flexibility difficult and is likely to make approaching puberty a fearful prospect. Keeping secrets isolates children from their peers and from other sources of support. A child whose sex has successfully been kept secret from their peers will have been led to believe that if others knew their actual sex, they would wish them harm. Maintaining secrecy about a child’s sex creates a growing tension as puberty approaches, and puts pressure on children to take physical steps, such as breast-binding or seeking unregulated hormone treatment on the internet.*

## 4. Physical Education

**“If PE classes are organised by sex, a transgender young person should be allowed to take part within the group which matches their gender identity”.**

- The danger here is that girls’ sport will be damaged. There is ample evidence of male physical superiority in many sports, whether there is gender reassignment treatment or not. The recent UK Sports Councils’ guidance states that sports need to decide between fairness in competition and inclusion. In a context where it is already very difficult to involve and keep girls involved in sport this could have unhelpful unintended consequences.

**“A transgender boy or non-binary young person who has developed unwanted breasts might bind their chest to flatten it ...there are health risks associated with wearing binders that are too tight...Binders can, however, have a positive impact on a young person's mental health”**

- Breast binding is highly contentious with a range of potential health consequences (as acknowledged here), yet here the implication is that it is a benign and simple process. The guidance fails to acknowledge that many young women experience embarrassment and discomfort as their breasts develop, especially if there is a culture of sexual commenting or bullying.
- Providing support and understanding about why a girl would want to bind her breasts has to be accorded at least as much attention in this guidance if not more. (The UN has condemned a related practice of breast ironing.) Again, schools and teachers could be open to legal action from parents who may not have consented to this practice or from young women whose health has been damaged.

## 5. Data and Resources

**“Sometimes the bullying directed at a trans young person also includes aspects of homophobic or biphobic bullying because of confusion between gender identity and sexual orientation”.**

- There is increasing anecdotal evidence to suggest that children who experience same-sex attraction are drawn to the narrative that it is possible to change gender because then they will not experience homophobia. So, these concepts can be inter-linked and to an extent confused.
- The argument could also be made that introducing children to transgender ideology at a young age could provide them with an additional concept to use in bullying of others.
- That said, the section does include very important messages about dealing with bullying which should apply across the board.

**“SEEMiS now enables schools to record any underlying prejudice or other negative attitudes reported in an incident of bullying, including those relating to a protected characteristic under the Equality Act 2010. Therefore, schools are expected to record incidents of transphobic bullying, specifically detailing the transphobic elements. This allows schools to accurately monitor incidents; how they responded, and the impact”**

- Technically this could be seen to go beyond the requirements of the Equality Act which includes gender re-assignment rather than identifying as transgender – however, that does not mean that it might be useful to record the information.

**“Teachers should educate young people about transgender issues and work towards creating a culture of respect. Age-appropriate resources highlighted in the resources section in this document may help”**

- There is a need for more extensive consultation with parents and carers and developmental psychologists about the content of such education and how to ensure that it is age-appropriate and factually accurate.

**Young people can simply choose to tell others informally that they want to use a different name...**

- Changing the recorded sex in SEEMiS has no effect on a young person's legal sex..."

**"Schools should accept the written request from the young person and/or their parent or carer as sufficient to make the change to the pupil's record...it is recommended that consent is obtained from all of those with parental responsibilities for those young people under 16. Bringing parents into this discussion at as early a point as possible would be helpful".**

- This section could be seen to imply that a major life-changing decision can be simple. It is also lacking in clarity about the role of parents and carers, seeming to imply that a child can make the decision unilaterally and that involving parents in a recommendation only. This kind of message is contrary to other policies that place heavy emphasis upon partnership with parents. It also would open schools to potential legal action by parents who may consider that their parental rights and responsibilities have been overridden.
- Children must, of course, have the opportunity to speak to trusted adults about issues that are concerning them, including, for example, experiences of abuse and neglect, and there may be rare occasions where some immediate action is taken without parental involvement. However, that is very rare and even in the most extreme child protection cases every effort is taken to engage with parents and carers. Long after other adults have left their lives children's family will remain their family, even if estranged at times.
- Changing official SEEMiS data could affect the quality of educational research that draws on such data to understand sex-based differences in educational outcomes.
- Schools should be clear in their record-keeping that they record the sex (male or female) of all pupils. This is essential for protecting the health and welfare of children, and for monitoring discrimination.
- Although "gender" is sometimes used as a euphemism for "sex", this is confusing. Sex is a protected characteristic and is recorded on a child's birth certificate. For clarity, the word "sex" should be used in equality policies and record-keeping.
- Schools do not have any obligation under the Equality Act or human-rights law to agree to keep a child's sex confidential from teachers, peers or other parties who have responsibility for the health, safety, and welfare of the child. It is not reasonable for a child or their parents to ask a school to keep a child's sex secret or to affirm the child's view that their declared gender identity is their sex. Keeping secrets about sex is a safeguarding risk.
- A pupil might request that peers and staff use a "preferred pronoun", but they cannot compel this. It should be made clear that other children are not required to keep secrets or to lie about sex. Information should be given to children that is age-appropriate and honest.
- While some children may say they feel a "gender identity", it should not be assumed that this is something all children have. For example, a girl is a girl because she is female, not because she is assumed to feel a gender identity, or because she conforms with gender stereotypes about girls' clothing or interests.

## 6. Toilets and changing facilities

**“There is no law in Scotland which states that only people assigned male at birth can use men's toilets and changing rooms, or that only people assigned female can use women's toilets and changing rooms”.**

- This is factually inaccurate language and potentially dangerous to children if they believe that it is straightforward to change sex.
- More broadly there is a need for further consultation with parents and carers if the removal of sex-based spaces is considered. Unfortunately, there are some young men (regardless of how they define their own gender) who will exploit opportunities to sexually harass or assault young women.
- The general advice about ensuring that all toilets and changing spaces are experienced as safe for all children is important.

**“If young people, or their parents/carers, express concerns about sharing toilets or changing rooms with a transgender young person, it may be because they are concerned that the transgender young person may behave inappropriately. In this instance, schools should seek to dispel any misconceptions: a transgender young person's presence does not constitute inappropriate behaviour”.**

- This statement fails to recognise the unintended consequences of opening opportunities for young men to exploit. Concerns about the potential for young men to sexually harass young women are not intrinsically transphobic, they are a sad reflection upon the evidence of the extent of sex/gender-based violence committed by males against females. It is only safe to mix the sexes in such spaces once society has eradicated violence against women and girls.

## 7. Role models

- There is a fine line to be drawn between providing a range of role models to children and glamorising or fetishizing a particular life choice. The high profile of some transgender celebrities may fuel this glamorisation of a life choice that can have profound lifelong effects.



## 8. Language and terminology

- Consistent use of the term 'sex assigned at birth' renders this section highly contentious. It is factually inaccurate and there are huge problems with using such inaccurate language with children.

## Summary of our concerns

As parents and teachers, we are increasingly concerned about this guidance and the absence of any evidence about:

- Side-effects of medical treatments for gender dysphoria
- From people who have de-transitioned,
- On the rise in numbers of girls (in general) and those with autism expressing the wish to change gender,
- On the numbers of children who change their minds if not rushed into significant life changes and the contested nature of the issue
- The potential issue surrounding social transition in schools.
- Being transgender is not a child protection or wellbeing concern in itself

We also have concerns about the absence of acknowledgement:

- Of the lack of involvement of parents and carers in guidance development
- That the guidance is based on ideology that is contested
- The lack of attention to gender critical perspectives and that they are now a 'protected belief' within the Equality Act 2010
- The dangers of exposing young children to age-inappropriate information about sex and gender with the attendant risks of provoking worries that may not have occurred otherwise.

## Key concerns:

- This guidance is underpinned by scientifically untrue statements such as “sex is assigned at birth”. This is factually inaccurate and can be potentially dangerous in an educational setting.
- Is based on what some would like the law to be as opposed to what it is.
- Allows for children to change their names and presented gender (social transition) in school without involving parents and carers, with the danger of dividing children and parents and opening schools and teachers up to potential legal action. The Scottish Schools (Parental Involvement) Act 2006 (Guidance) makes clear that:

**“Parents are the first and ongoing educators of their own children and know them best. This Act means that, more than ever before, parents and schools working together will benefit from their shared knowledge and be able to support our children towards reaching their full potential”.**

- We are concerned that the Transgender Guidance doesn’t take this Act into as much consideration as it should.
- Leaves schools and individual teachers in a position of having to make very difficult decisions about how to respond to children and who else to involve which could open them to legal action from parents and carers or the children themselves when older.
- Could undermine girls’ sport with potential knock-on impacts on girls’ and women’s general fitness, health and wellbeing and Scotland’s competitive advantage in women’s national and international sport.
- Implies that changing gender is a relatively simple process with total absence of acknowledgement of the huge implications for a child and their friends and family of making such a life-changing decision that can have profound physical health and mental health implications for the rest of their lives.
- Fails to acknowledge wider factors of social contagion, online pressure, homophobia, misogyny and the impact of rigid sex and gender stereotyping in society.

## The Cass Review: We will be adding further statement to this when the full report is published

The Cass Review, led by Dr Hilary Cass OBE, published its Interim Report on 10th March 2022. The report considers that:

**“There has been research on the short-term mental health outcomes and physical side effects of puberty blockers for this cohort, but very limited research on the sexual, cognitive or broader developmental outcomes”.**

Within the Guidance for schools, the Scottish Government confirm “It is known that around 200 young people per year receive support from the Young Person’s Gender Service with their transition”. This statement concerns us, and we feel that it will have the potential to be interpreted by teachers and schools as being an implicit assumption of transition and without any mention of the side effects of medical treatments for children with gender dysphoria this is a one sided message.

- According to the Cass Review: 3.30. In the short-term, puberty blockers may have a range of side effects such as headaches, hot flushes, weight gain, tiredness, low mood and anxiety, all of which may make day-to-day functioning more difficult for a child or young person who is already experiencing distress. Short-term reduction in bone density is a well-recognised side effect, but data is weak and inconclusive regarding the long-term musculoskeletal impact.
- Social transition is not a neutral act, but an active intervention
- There are concerns over the impact social transition may have on the subsequent developmental pathway for a child or adolescent with gender distress
- Co-morbidities must be given greater consideration
- The role of schools will be subject to greater scrutiny by the Cass Review