

Consultation response by Galop on non-statutory draft guidance for schools and colleges on gender questioning children



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Q1: Do you think the structure of the guidance is easy to follow?

No

Q2: If you answered no, how could the structure of the guidance change to make it easier to follow?

The guidance misses out crucial information that is relevant and needs to be included. There is no consideration within the structure of the guidance for how to include trans and gender questioning pupils. The whole guidance is structured around an incorrect assumption that young people cannot be trans and cannot question their gender.

- There is no easy read version of the guidance, and it is inaccessible for younger pupils who will be impacted by it and those with other accessibility needs. There is also no British Sign Language version.

- The guidance does not touch on these areas:

- Pupils who have already transitioned whether at their current school or college or a previous one
- Pupils with poor mental health who may be transgender or questioning their identity and require support rather than watchful waiting
- Pupils experiencing transphobic bullying and harassment in school or college and how schools' must take this into account when implementing any policy relating to inclusion of a minoritised group.
- Challenges faced by pupils with intersecting identities, including immigration or asylum status and those from cultures who approach gender identity differently. For example, at least 15 countries have already allowed people to amend their gender to a legalized non-binary or third gender identifier on their passport, including Argentina, Austria, Australia, Canada, Colombia, Denmark, Germany, Iceland, Ireland, Malta, the Netherlands, New Zealand, Pakistan, India and Nepal.

There is no information on the duty of public institutions to prevent discrimination for those with the protected characteristic of gender reassignment nor has an Equality Impact Assessment been provided, to show that the guidance helps schools meet their equalities duties.

The guidance makes no reference to non-binary identities, intersex pupils who are trans or trans pupils with SEND and the tailored support they might require.

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Q3: Does this guidance provide practical advice to support schools and colleges to meet their duties effectively?

No

Q4: If you answered no, how could we improve deliverability placed on schools and colleges whilst still providing for schools to meet their duties?

This guidance makes out as if it must be followed as do the accompanying Government communications, but it contradicts a school's other legal duties (e.g. safeguarding, equalities or children's rights responsibilities), and will significantly negatively affect how trans young people are treated in school. It is written on the assumption that young people cannot be trans and should not be treated as trans.

This guidance should at minimum comply with the law as in effect many education institutes will follow it.

Schools and colleges must follow the Equality Act 2010, which protects trans people (regardless of age or having a Gender Recognition Certificate) from discrimination under the protected characteristic of gender reassignment. The guidance doesn't mention this characteristic, nor that it covers any individual of any age who proposes to come out as trans. This will expose education institutes that follow this guidance to unnecessary legal risk.

The Equality Act states that individuals with the protected characteristic of gender reassignment can be excluded from single-sex spaces that align with their gender, but only on a case-by-case basis and where it is a proportionate means of achieving a legitimate aim. The guidance instead proposes a blanket ban as the starting point, which is unlawful.

Keeping Children Safe in Education (KCSIE) 2023, which is statutory guidance, states:

- Being LGBTQ+ is not a safeguarding concern in itself. Risk of harm can arise from bullying from peers and staff, and abuse in the home.
- Schools have a statutory duty to safeguard and promote the welfare of their pupils. The guidance does not adequately reflect the existing safeguarding thresholds on confidentiality and whether a school should tell a parent that a pupil wants to socially transition.
- When safeguarding concerns are raised, these should be shared with only necessary staff to keep concerns as confidential as possible. This contradicts the guidance, which

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states that 'all relevant' staff should be informed of an individual's social transition, without defining who the staff would be.

This guidance will place an additional unnecessary, costly burden on schools to identify from the statutory KCSIE and this guidance what they are actually meant to do.

Q5: Does this section provide enough detail to help schools and colleges support children?

No

Q6: If you answered no, in which of the following areas do schools and colleges need further guidance to support a child? [tick all that apply]

- How schools and colleges should involve parents in decisions, How schools and colleges should manage engagement with parents with different feelings or views to their child, When schools and colleges should seek specialist advice or support, How schools and colleges can identify what issues may impact the wider school or college community, How schools and colleges should handle decisions that impact on the wider school and college community., The law, Something else (please specify)
- We reject the notion of 'watchful waiting'. Young people need support and care to rationalise their identity in a safe manner. Disengaging from supporting them through 'watchful waiting' is an obvious rejection of what the young person is feeling at that time and will worsen mental health outcomes and relationships between them, their school and their families.
- Anyone wishing to socially transition have the protected characteristic of gender reassignment, regardless of age. There is no further information about this protected characteristic in the guidance to support this group. The guidance wilfully misinterprets 'gender reassignment'.
- The guidance offers no clarity on what is meant by the 'potential impact on the school community' of a pupil's decision to socially transition including the fact that a school that successfully, positively supports a pupil who is socially transitioning will be more attractive to all young people who are overwhelmingly supportive of LGBT communities.
- Whether someone has clinical documentation of their transition is irrelevant to how a school should support their social transition. Further clarity is needed that there is no requirement to share this information, where it exists, with schools.

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- The guidance ignores safeguarding procedures set out in statutory safeguarding guidance (KCSIE), which confirms that:
 - LGBT+ identity is not an inherent safeguarding risk.
 - It could be a breach of confidentiality that is not in the pupil's best interest to inform their parent or carer about a pupil's wish to socially transition.
 - Pupils who have nobody to discuss and rationalise their identities with are likely to become uninvested, frustrated and demotivated, experience deteriorating mental health that impacts their academic attainment and life prospects.
- In relation to the role of parents, further information is needed about:
 - How to consider a pupil and parents' conflicting views or safely initiate a discussion with a parent about a child or young person being trans.
 - How to secure consent to inform parents and the circumstances in which disclosure is necessary, in line with best practice guidelines from safeguarding experts like NSPCC and Childline.
 - How to proceed if both the pupil and parents are supportive of a social transition, as is likely in our experience.

No consideration is given to the fact that parents and carers are often perpetrators of domestic abuse against their LGBT+ children. Raising young people in a culture where authorities are required to inform on their identities to potential perpetrators will worsen trust in all authorities. From Galop's 2022 research 'An isolated place': LGBT+ domestic abuse survivors' access to support', conducted with YouGov, around 6 in 10 (61%) LGBT+ survivors did not seek support from services following a particular instance of abuse by a family member or a partner/ex-partner.¹ Close to 4 in 10 (38%) LGBT+ survivors went without support from friends, family or other informal supports following an instance of abuse by a family member or a partner/ex-partner.² The proposed guidance will have a particular impact on trans, non-binary and gender diverse+ young people, who already are particularly mistrustful of authorities, the same report showed that there are high levels of concern about being mistreated by services or that services may not understand the identities of these people.

¹ <https://galop.org.uk/resource/an-isolated-place-lgbt-domestic-abuse-survivors-access-to-support/>

² <https://galop.org.uk/resource/an-isolated-place-lgbt-domestic-abuse-survivors-access-to-support/>

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Q7: 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

Q8 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?

This guidance will have a negative impact on young people who need support in rationalising their identity and instead prioritises the parents' view. This will lead to worse mental health outcomes for young people and deterioration in relationships.

The guidance places the parents' wants over the child's needs, in contravention to the UN Convention on the Rights of the Child. The regulatory line when working with young people is to consider their best interests. To do this, young people need to be listened to and engaged with and not placed in a 'watchful wait' limbo.

The Metro 'Youth Chances: Integrated Report' found that 58% of trans people knew they were trans by the age of 13, showing that school-age children know themselves to be trans.

Sharing medical or clinical information, such as whether you're on a waiting list or receiving care, is a personal choice, and no one should feel pressured into sharing this information just because a pupil is trans. No advice is offered on how schools can safely store this sensitive data and who it would be accessible to.

Galop's report, 'LGBT+ Experiences of Abuse from Family Members', found that nearly half of trans and non-binary people surveyed had experienced abuse from their family, usually starting before they were 18 and 21% of those experiencing familial abuse did not tell anyone about their experiences.³

Schools and colleges should only engage with parents with the explicit consent of the child or young person in question.

³ <https://galop.org.uk/resource/lgbt-experiences-of-abuse-from-family-members/>

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The question asks what weight, if any, should be given to the impact of an individual socially transitioning on other children or young people. The guidance does not explain what this means.

Research consistently shows that supporting an individual's social transition has positive mental health benefits, even when that person's gender identity changes or evolves.

The following case study from Galop's frontline team is a common example of what can happen when schools or colleges do not consider a pupil and parents' conflicting views, and prioritise parents' views over a young person's support needs:

"A 16-year-old trans girl sought support from Galop as she was experiencing transphobic bullying at school. She was not out to her parents yet, and had not informed professionals at the school of her trans identity. She was struggling to cope with the fear of coming out to her parents and officials at her school. The transphobic bullying and fear of coming out impacted her mental health so severely that she was struggling with suicidal thoughts.

When the young girl's parents found her social media profiles and discovered she was trans, they reacted badly. They told her she was being "groomed on the internet" and were not supportive of her identity. This resulted in her suicidal thoughts progressing to suicidal ideation.

In an attempt to seek support, the girl came out as trans at school. At first, the school was supportive, suggesting school and external LGBT+ counselling, however, the girl's parents refused to allow her to access these services. The school then denied the young girl any trans specialist support, would not allow her to wear a gender-affirming uniform, and did not provide her with access to a gender neutral toilet. Meanwhile, the girl was still experiencing transphobic bullying and hate incidents by her peers.

Ultimately, the lack of support from her school, parents and peers lead the young girl to attempt to commit suicide."

Q9: 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

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Q10: If you answered no, what further information should be included to help schools and colleges?

Pupils' names and gender could easily be included in the admissions register whether they are trans or not. Singling out pupils who stray from the norm in terms of their names will lead to bullying.

The guidance does not state which staff are relevant in terms of knowing a pupils' trans status. 16- to 18-year-olds can legally change their name by deed poll without their parents' consent, which sits in contravention to the guidance. Schools would need to record this.

Q11: Does this section on page 12 provide enough detail for schools and colleges to respond to a child's requests to change their name?

No

Q12: If you answered no, in which of the following areas do schools and colleges need further guidance to respond to a child's requests to change their name? [tick all that apply]

- How schools and colleges should make a decision about a child's request to change their name, When schools and colleges might refuse a request in relation to a child changing their name, How schools and colleges should involve parents in a decision about a child's request to change their name, How schools and colleges should make relevant staff and other children aware of any agreed changes to name, What factors schools and colleges should take into account, How schools and colleges should respond to other children and staff who do not wish to use a different name, The law, Something else

Deliberately not using a person's chosen name is unnecessarily cruel, will isolate them and lead to deterioration of relationships.

There is no reason not to include a pupil's chosen name in the admissions register, particularly if this is the basis for teachers and school staff to refer to the pupil in their day-to-day running of the school.

Unnecessarily disclosing a previous name would take no consideration of the harms of sharing a pupil's trans status, and repeatedly doing so may constitute harassment. It would be a breach of confidentiality as well as, in some cases, the rules set by GDPR.

If a non-trans pupil wants to be known by a different name at school or college and schools and colleges have to 'fully consult' with their parents/carers, then this is likely

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result in instances of domestic abuse and conversion therapy/practices where the parent/carer is hostile towards transgender people. Galop's research shows that nearly 1 in 5 (18%) LGBT+ people in the UK have been subjected to someone trying to change, 'cure' or suppress their sexual orientation or gender identity and that trans (43%) and non-binary people (36%) are significantly more likely to be subjected to conversion practices.⁴ The majority of LGBT+ conversion practice survivors reported that they were subjected to these attempts of conversion or "cure" by a family member (56%).⁵

There is no guidance for schools and colleges to assess whether an informal name change is in the best interests of the child or young person. There is a positive impact of using a child or young person's chosen name on their mental health.

There is no guidance on how schools manage the damaging impact of staff or pupils who refuse to use a pupil's chosen name.

The guidance does not state which staff are relevant in terms of knowing a pupils' trans status. 16- to 18-year-olds can legally change their name by deed poll without their parents' consent, which sits in contravention to the guidance. Schools would need to record this.

The following case study from Galop is a common example of what can happen when schools or colleges do not consider the impact of consulting with a parent or carer who is hostile towards transgender people:

"A Wellbeing Officer at a college referred a young trans person to Galop for support.

The college had supported the young person in using his chosen name when he came out as trans. However, the college used the young person's chosen name when corresponding with his mother, which resulted in his mother becoming abusive towards the young person, and college staff.

The young person's mother threatened legal action, but the college did not stop using the young person's chosen name. This meant that the young person felt supported and validated on college premises, but was being subjected to extreme emotional and psychological abuse at home, along with threats of forced marriage if he didn't leave the 'cult of trans'. The young person had no financial independence, and so was unable to leave home.

⁴ <https://galop.org.uk/resource/there-was-nothing-to-fix-lgbt-survivors-experiences-of-conversion-practices/>

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Despite the support the young person was receiving at college, the abuse he was enduring at home resulted in suicidal thoughts and ideation. Children's

Social Services got involved and recognised that the young person was no longer safe, and removed him from the family home."

Q13: 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

Q14: If you answered no, in which of the following areas do schools and colleges need further guidance to respond to a child's requests to change their pronouns? [tick all that apply]

- When schools and colleges should refuse a request in relation to a child changing their pronouns, What factors schools and colleges should take into account., How schools and colleges should involve parents in a decision about a child's request to change their pronouns, How schools and colleges should make relevant staff and other children aware of any agreed changes to pronouns, How schools and colleges should respond to other children and staff who do not wish to use different pronouns, The law, Something else

The guidance suggests that no primary age pupils should be allowed to use a different pronoun, without offering any explanation or evidence to justify this.

Not using a trans pupil's chosen pronouns could be considered discrimination or harassment under the Equality Act 2010 as noted in the example on page 65 of the EHRC's Technical Guidance for Schools in England.

Further explanation is needed as to why the guidance suggests all other options before using a pupil's chosen pronouns and what those other options are meant to be.

Handling transphobic bullying is not addressed, in relation to deliberate misgendering by other pupils or staff, nor schools and colleges adhering to statutory safeguarding duties as established in KCSIE.

Q15: Does this section on 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 (e.g. toilets, changing rooms, showers and boarding and residential accommodation) designated for the opposite sex?

No

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Q16: If you answered no, in which of the following areas do schools and colleges need further guidance? [tick all that apply]

- How schools and colleges should make a decision about a child's request not to use facilities designated for their sex, When schools and colleges have to refuse a request in relation to a child using facilities designated for the opposite sex., How schools and colleges should involve parents in a decision about a child's request not to use facilities designated for their sex, What factors should be considered when deciding whether to offer alternative facilities, Toilets, Changing rooms, Boarding and residential accommodation, The law

Q17: 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

Q18: 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

Q19: If you answered no, in which of the following areas do schools and colleges need further guidance? [tick all that apply]

- How schools and colleges should make decisions about requests to access boarding and overnight accommodation designated for children of the opposite sex, When schools and colleges should refuse a child's request to use different boarding and overnight accommodation while on a school or college trip, How schools and colleges should involve parents in a child's request to use different boarding and overnight accommodation while on a school or college trip, The law

Q20: 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

Q21: 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? [tick all that apply]

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- How schools and colleges should make a decision about a gender questioning child who makes a request in relation to uniform, When schools and colleges might refuse a request in relation to a child wearing a different uniform, How schools and colleges should involve parents in a decision about a gender questioning child who requests an exception to uniform requirements., How a school or college might accommodate a request within their uniform policy, How schools and colleges should make relevant staff and other children in the school or college aware of any changes agreed., The law

The guidance is regressive in its understanding of gendered clothing. All young people should have the right to wear the uniform that works best for them, which many schools in practice already do.

The Government's guidance on school uniforms advises schools to consider pupils who share a protected characteristic under the Equality Act 2010, citing sex, religion or belief, race, disability, gender reassignment and pregnancy, in uniform policy.

Taking away the choice of swimming costumes would effectively exclude some trans pupils from swimming. Removing this cohort's access to exercise will result in worse educational attainment and mental health outcomes.

Q22: 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

Q23: 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? [tick all that apply]

- How schools and colleges should make a decision about whether a child can take part in a certain sport or activity., When schools and colleges should refuse a request in relation to a child taking part in a certain sport or activity, How schools and colleges should involve parents in a decision about a child's request to participate in a certain sport or activity, How schools and colleges should make relevant staff and children aware of any changes agreed, The law, Something else

The guidance proposes a mandatory blanket ban on trans pupils taking part in a number of separate sex sporting activities consistent with their gender identity. It does not provide sufficiently detailed guidance for schools on how inclusion, fairness, and safety can and should be considered and approached in practice.

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The guidance is out of step with existing policies of some sport governing bodies, such as the Football Association, where under 16s can play in a girls' or a boys' team regardless of sex assigned at birth; Schools and colleges are left to make difficult, subjective decisions on the different sports where physical differences may impact safety. The level of contact/physicality that would require the exclusion of trans pupils from a sporting activity according to the guidance is not made clear. This could lead to inconsistent decisions being made across schools.

School and college must include PE on the curriculum up to age 16 meaning schools risk falling short of this duty if they cannot include an under 16 trans pupil as a result of this guidance.

The guidance will exclude trans pupils from the mental and physical benefits of exercise, since many report significant barriers in playing sport in the wrong gender category.

No advice or guidance is given on how to include trans pupils and make them feel welcome in sport - the guidance focuses on how to exclude. This may contradict the Public Sector Equality Duty requirements to advance equality of opportunities for those with the protected characteristic of gender reassignment.

Q24: Think about the circumstances provided in the guidance on page 17, 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

Q25: 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 and colleges need guidance which emphasises the need to promote inclusion, body positivity and health in PE lessons. The guidance should support schools and colleges to enable safe participation for all pupils within a lesson context, rather than compelling exclusion as default.

Safety is not solely determined by sex differences, but also by technique and oversight by school staff.

Physical differences are intrinsic to competitive sport - the focus on sex differences in relation to fairness does not consider the impact of technique, training, equal access etc.

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No guidance is offered for pupils who are medically transitioning, e.g., taking hormones and/or puberty blockers, and for whom assumptions about physical differences relating to sex may not apply.

Q26: 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

Q27: If you answered no, in 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?

The guidance should clarify that, according to current advice on the Equality Act:

Single sex schools and colleges can choose to admit trans pupils without losing their single sex status.

For example, a single sex boys' school agreeing to admit trans boys, or a single sex girls' school agreeing to admit trans girls would be legal and would not affect the schools' single sex status.

Schools and colleges cannot refuse to admit a pupil on the basis that they are trans, non-binary or gender questioning, if their sex assigned at birth aligns with the single sex status of the school or college.

For example, a single sex girls' school cannot refuse to admit a trans boy or non-binary person who was assigned female at birth based on their gender identity.

Schools and colleges, regardless of their single sex status, cannot remove a pupil for transitioning, desiring to transition or questioning their gender whilst enrolled as a pupil at said school or college.

The use of 'gender questioning' rather than 'trans and non-binary' confuses the guidance here. Use of specific, widely recognised language relating to gender reassignment as defined in the Equality Act 2010 would be more helpful.

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Q28: 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 Equality Act 2010 defines gender reassignment as a protected characteristic. It means that schools may not see how this guidance interacts with their existing legal duties under the Equality Act 2010, particularly with regard to discrimination and harassment on the basis of gender reassignment. This could put schools in a position where they are acting unlawfully.

The guidance does not give schools enough clarity on how to balance the rights of those who hold different protected characteristics. For example, the rights of those with protected beliefs do not allow discrimination or harassment against those with other protected characteristics on the grounds of those beliefs.

Much of the guidance could be considered to actively encourage schools and colleges to undertake discriminatory action towards children and young people protected by the characteristic of gender reassignment. This has allegedly already been identified as a key risk by the Government's lawyers, who have noted several areas in the guidance that could be legally challenged.

The Department has not yet published an Equality Impact Assessment (EIA) so has not shown how the guidance has due regard to its equalities duties, nor has it published a Children's Rights Impact Assessment.

Q29: Do you have any comments on the overall approach of the guidance?

This guidance should not be written from the starting point of how to exclude as many trans, non-binary and other gender diverse pupils as possible. It should be written to be genuinely helpful for schools in supporting their whole cohort. Trans, non-binary and gender diverse pupils are not going away, in fact it appears these are growing populations, to try to manage them away and make them out to be a challenge to society is fundamentally wrong and means the education system won't be harnessing the best of these people.