

Response ID ANON-Q2TN-2B15-Y

Submitted to Guidance for Schools and Colleges: Gender Questioning Children
Submitted on 2024-03-12 23:59:04

Rationale and guiding principles

About you

1 Are you responding to this consultation as an:

Organisation, for example, a charity, school/college or think tank

2 If you are responding as part of an organisation, would you prefer your response was kept confidential?

No

3 If you are responding as an individual, are you responding as (please select all that apply):

N/A

Please specify :

4 If you are responding to this consultation as an organisation, are you responding as:

A charity

Please specify:

5 Are you responding to the consultation with an interest in:

Primary schools, Secondary schools, Faith schools, Alternative provision/special schools, School sixth forms, FE college, Sixth form college, Designated institutions

6 If you want all, or any part, of your response to be treated confidentially in response to a freedom of information request, please explain why you consider it to be confidential.

Please try to limit your response to under 250 words. Please do not add any details which may easily identify you or your organisation.:

Introductory Questions : Age

7 If you are responding as an individual, are you:

Not Answered

8 What is your sex?

Female

9 Is the gender you identify with the same as your sex registered at birth?

Yes

10 Where are you based?

England

Please try to limit your response to under 250 words. Please do not add any details which may easily identify you or your organisation.:

Structure and overall guidance

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

No

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

Please try to limit your response to under 250 words. Please do not add any details which may easily identify you or your organisation.:

- 1) Provide an Easy Read version of the guidance.
- 2) Include a clear section on how to respond if a pupil comes out as trans, and more practical suggestions in all other sections on how to support pupils who are questioning their gender, who wish to transition, or who have transitioned.

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

No

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

Please try to limit your response to under 250 words. Please do not add any details which may easily identify you or your organisation.:

1) SEND issues must be addressed

Latest DfE figures suggest that 17.3% of pupils have labels of SEND, yet there is no reference to these pupils in the draft guidance. Responding to and supporting pupils identified as having SEND should be threaded throughout this document. In addition, there should be specific mention of the intersection of SEND and transgender identities. There is a growing body of literature suggesting that neurodivergent young people are more likely to have trans identities. Staff in schools and colleges need to know this, and to know how to support neurodivergent pupils who are questioning their gender identity.

2) The guidance MUST be consistent with existing law and statutory guidance, and must mention at least the Equality Act 2010 and Keeping Children Safe in Education (KCSIE). It is inaccurate to say (p.3, point 4) that schools and colleges have specific legal duties that are framed by a child's biological sex. To the contrary, the Equality Act protects all trans people, regardless of age, through the protected characteristic of gender reassignment (irrespective of whether a person has any intention or plans to transition). For the same reason it is also inaccurate to say (p.3, point 5) that there is no general duty to allow a child to 'social transition'. A number of recommendations in the draft guidance (particularly suggestions that staff should ignore pupil wishes and disregard their identities, e.g. by not adhering to requests for change of name, pronouns or use of spaces) stands in direct conflict with the public sector equality duty, especially the duty to eliminate harassment and discrimination. KCSIE places a statutory duty on schools to safeguard and promote the well-being of all pupils, yet this guidance invites staff to act in ways which undermine trans pupils' well-being.

Responding to Requests and Engaging parents

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

No

16 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 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

Please try to limit your response to under 250 words Please do not add any details which may easily identify you or your organisation.:

The final guidance should be consistent with KCSIE throughout. For example, KCSIE states that sharing with parents an LGBT disclosure may not be in the pupils' best interest and could constitute a breach of confidentiality. The draft guidance says that parents should be informed, which is in direct conflict with existing statutory guidance.

The potential "impact on the wider school or college community" is not defined and sounds transphobic.

If a "watchful waiting" period is interpreted as a blanket policy for no immediate action, this could prove detrimental for some young people who have waited a long time before confiding in an adult and are ready for things to begin to change.

17 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

18 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?

Please try to limit your response to under 250 words Please do not add any details which may easily identify you or your organisation.:

See above re: watchful waiting and making parents aware.

There should be clear and consistent reference to SEND issues, particularly neurodiversity and learning difficulties.

Acting in the best interest of the child/young person should always be the primary consideration. Prioritising parent views or the perceived impact on other children could have a devastating impact on the pupil in question. The section on long- and short-term impact on p. 10 seems to expect that the impact will be negative, which also sounds transphobic. It is vital that the likely positive outcome is also mentioned in the guidance: that research has

repeatedly shown that supporting a child or young person to transition has a positive impact on their mental health.

Registration of Name and Sex

19 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

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

Please try to limit your response to under 250 words. Please do not add any details which may easily identify you or your organisation.:

Changing Names

21 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

22 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]

Please try to limit your response to under 250 words. Please do not add any details which may easily identify you or your organisation.:

Pronouns

23 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

24 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

Please try to limit your response to under 250 words Please do not add any details which may easily identify you or your organisation.:

The Equality Act protects all trans people regardless of age, so there is no justification for a blanket ban for primary schools - in fact that would seem unlawful.

Single-Sex Spaces - Toilets, Changing Rooms and Showers and Boarding and Residential Accommodation

25 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

26 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, Something else

Please try to limit your response to under 250 words. Please do not add any details which may easily identify you or your organisation.:

Here, too, the draft guidance stands in conflict with the Equality Act. The guidance should be amended to be consistent with existing legislation.

This section too should include more detailed advice on how to have these conversations with pupils identified as having SEND, particularly neurodiverse pupils and those who have learning difficulties.

27 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

Please try to limit your response to under 250 words. Please do not add any details which may easily identify you or your organisation.:

28 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

29 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

Please try to limit your response to under 250 words. . Please do not add any details which may easily identify you or your organisation.:

Uniform

30 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

31 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]

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

Please try to limit your response to under 250 words. Please do not add any details which may easily identify you or your organisation.:

Physical Education and Sport

32 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

33 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

Please try to limit your response to under 250 words. Please do not add any details which may easily identify you or your organisation.:

34 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

35 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?

Please try to limit your response to under 250 words] Please do not add any details which may easily identify you or your organisation.:

An emphasis on promoting inclusion, team spirit and healthy exercise for all. All three 'arms' of the public sector equality duty are relevant here, and sport can be an excellent way of building community, giving everyone a sense of belonging, and foster good relations between those who have and those who do not have any protected characteristic. In the same way that disabled pupils should be included in PE or sport with an emphasis on participation rather than winning, so should trans pupils. Rather than attempting to avoid a situation where some people feel uncomfortable, such practices can provide rich opportunities for discussion, acceptance and belonging.

Single-sex schools

36 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

37 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 [tick all that apply]

The law

Please try to limit your response to under 250 words Please do not add any details which may easily identify you or your organisation.:

38 To individuals responding who work in, or represent single-sex schools:Has your single-sex school previously had to make a decision on the admission to your school of a child of the opposite sex (regardless of whether or not the school admitted the child)?

Not Answered

39 If yes, was that child questioning their gender?

Not Answered

Please do not add any details which may easily identify you or your organisation.:

Public Sector Equality Duty [PSED]

40 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?

Please give reasons for your answer and try to limit your response to under 250 words:

It is imperative that an Equality Impact Assessment is carried out, which we understand has yet to be completed. The potential impact of this guidance on the well-being of trans children and young people, all the more those who also have other protected characteristics and are at much higher risk of harassment and discrimination, should also be considered. Adverse impact can be reduced by ensuring the guidance is consistent with existing law and statutory guidance.

General

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

Yes

If yes, please detail below and try to limit your response to under 250 words.:

The draft guidance seems to take a one-size-fits-all approach, suggesting blanket bans that stand in direct conflict with existing law and statutory guidance. This needs to be amended.

It would be extremely helpful if the Department clarified that only draft guidance for consultation has been published so far, and confirms that all provisions of the Equality Act, KSIE and other relevant guidance (eg on school uniform) continue to stand.

The consultation document has been produced in a form that differs from what consultation documents usually look like (text first, questions after, all in the same document) and it has been widely misunderstood, even mis-represented in the media, as the long-awaited guidance that schools have to follow. There are significant gaps in the guidance, for example the absence of any reference to issues of SEND, and significant conflicts with existing legislation and statutory guidance, all of which needs to be put right.

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

Yes

If yes, please detail below and try to limit your response to under 250 words.:

The language used in this draft guidance can be very distressing for trans people and their allies, and some of the blanket policies proposed need a serious rethink to be brought in line with existing protections trans people have under current law. A lot more work is needed before this draft guidance can be fit for purpose.