

ParentPower Response:

Consultation on Guidance for schools in England on Gender Questioning Children

March 2024

Structure and overall guidance

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

Yes

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

The layout of the guidance is clear, but we have notable concerns about the content. We feel the guidance, though well intentioned, falls short of its intended aim to protect all children, and to help schools navigate this sensitive subject. Given the findings of the interim Cass Review we know that social transitioning is not a neutral act. Furthermore, we are not aware of any rigorous scientific evidence that demonstrates a clear benefit of social transitioning practices to the small minority of children suffering gender confusion/distress, and which do not at the same time present a risk of harm to the many other children, in the form of confusion and anxiety. The interim Cass Review highlights the potential for social contagion, which may explain the exponential rise in children being referred to the NHS Gender & Identity Development Services (GIDS). In depth studies by The Policy Exchange, Civitas, New Social Covenant Unit, and the Bad Law Project have started to demonstrate the extent and implications of gender ideology in schools, that may well be influencing vulnerable children, with complex comorbidities, to latch on to the associated concepts and thus desire affirmation by acceptance of social transition requests. This ideology is a very much contested fringe belief, and has no place being taught in schools as fact. This is only partially acknowledged in the guidance, and thus should be strengthened accordingly.

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?

The guidance goes some way towards providing practical advice for schools to meet their duties, but it does not go far enough, and leaves numerous loop holes that could be exploited by the same school leaders who have been pushing gender ideology over recent years. We also note that the guidance is non-statutory. As such, school leaders will be able to choose whether to apply it or not. We are already hearing that some school and union leaders are advising that this guidance should be ignored. Given the findings in the reports mentioned above, it would seem clear that any new guidance needs to have teeth, to ensure it's adoption, once strengthened. The guidance needs to state that school inspections will be expected to assess compliance with this guidance, preferably by independent and DfE accredited organisations that have no ties with activist organisations such as Stonewall or Mermaids.

The guidance should make it explicit that failure to comply with this guidance will be treated as a safeguarding issue. This guidance should link to the forthcoming RSHE guidance, and make clear that each school's curriculum should not teach contested beliefs such as gender ideology, which views should not be integrated into the wider school curriculum. Lastly, the term 'sex' should be defined as 'biological sex' in the section on Language and Terminology so as to avoid confusion.

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 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 should put in place a 'watchful waiting' period before acting on a child's request, 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]

We feel that social transitioning should not be permitted in any schools and colleges. However, we recognise that such an outright ban might require a change to the law. In the interim, a very high standard of proof should be established, which would need to be satisfied before requests for social transitioning should be considered further. This is because social transitioning is not a neutral act, and would serve to affirm a claimed

gender identity, which could put the school at risk of future legal action should the child change his or her mind at a future date, and regret so-called gender affirmation decisions made during or subsequent to their school years. Such future detransitioners may well claim that they were directed down the wrong path as a consequence of influences and decisions made whilst at school. Therefore, this risk should not sit with the schools and their teachers, who are not clinically trained, but be instead allocated to those qualified to mitigate this substantial risk through effective clinical judgement and in full collaboration with parents. It should be a requirement for children who've expressed a wish to socially transition to first have a comprehensive medical assessment of their condition, in line with the recommendations of the Cass Review.

Gender distress is very often a symptom of other mental health struggles! A full clinical assessment is needed for schools to assess the best way to help gender distressed/confused children, and this should include a prolonged period of watchful waiting. Parental consent for social transition should be an absolute requirement, and they should be able to veto a child's request for social transition. We would also point out that many schools and teachers are in fact ignorant of what the law actually says, and they may well be influenced by extreme interpretations pushed by radical activist organisations such as Mermaids, for example.

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?

Giving school leaders the decision-making powers on whether to allow a child to socially transition, or not, is not fair on the school leaders as they are not qualified to make this decision. School leaders are not qualified to assess the long-term impact on the child. Gender distress is very often a symptom of other mental health issues, and school leaders are not qualified to assess the seriousness and context of the social transition requests in conjunction with any other medical conditions. Appropriate, professional help is required, without which they would be exposing themselves to a risk of future legal action. Recall that the vast majority of children with gender distress (80-90%) overcome this by the end of puberty. This is well documented. The Government should mandate a clinical assessment before school leaders should even consider a child's

request to socially transition. As such, school leaders should be expected to refuse all requests to socially transition from children, at least until such time as a clinical assessment has deemed this advisable. Even then, the decision to approve such requests should be weighed against the potential adverse impact on all the other children who attend the same school. The guidance does not detail any means of conducting such a risk appraisal, and thus how are the school leaders expected to do this?

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?

‘Sex’ is not defined in the guidance. As such, it should be clarified that it refers to biological sex. Schools should be told that recording of name and sex must reflect the principle outlined in the guidance, that children’s legal sex is ALWAYS the same as their biological sex.

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]

[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]

Within the guidance, use of alternative names is permitted, in consultation with parents. Will this extend to complete name changes i.e. assigning a totally different name to that on the birth certificate, and to a name typically adopted by the opposite sex? Or will it just allow for shortened versions of names, or middle names? Using opposite-sex name-changes is a form of social transitioning, and, like the use of opposite-sex pronouns, should not be permitted, at least until this has been deemed advisable by a comprehensive clinical assessment, and following a risk appraisal. The permitted extent of name changing needs to be made more explicit. School leaders do not have the professional capacity to make such decisions in isolation of specialist support, and effective risk appraisal guidance.

Parents should be fully included in the risk appraisal process and clinical evaluation, and must have the final decision, being able to veto the school's use of an alternative name. Teachers and pupils should not be required to use a child's informal name, if it doesn't conform to their biological sex. Teachers and pupils should be allowed to use the child's legal name if in conscience they believe that is the right course of action, and they should not be put under pressure to allow a child to adopt an alternative name that does not conform with their biological sex. School leaders should be told that their policies and practices must reflect the principle outlined in the guidance, and that children's legal sex is ALWAYS the same as their biological sex, regardless of any changes to their name.

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]

Within the guidance, use of alternative sexed pronouns is permitted, in consultation with parents. Using opposite sex and neo-pronouns is a form of social transitioning, and, like the use of opposite sex names, should not be permitted, at least until this has

been deemed advisable by a comprehensive independent clinical assessment, and following full risk appraisal, including for other pupils. This needs to be made more explicit. School leaders do not have the professional competence to make such decisions in isolation from specialist support, and effective risk appraisal guidance. Parents should be fully included in the risk appraisal process and clinical evaluation, and have the final decision. Teachers and pupils should not be required to use pronouns, if they do not conform to the child's biological sex. Teachers and pupils should be allowed to use the child's biological sex-based pronouns if in conscience they believe that is the right course of action, and they should not be put under pressure to allow a child to adopt pronouns that do not conform with their biological sex. School leaders should be told that their policies and practices must reflect the principle outlined in the guidance, and that children's legal sex is ALWAYS the same as their biological sex, regardless of any changes to pronouns.

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?

Yes

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

[Toilets, Changing rooms]

We fully support the guidance in this context, which states that facilities should be segregated in accordance with biological sex.

We note with approval the requirement for single sex toilet facilities. However, in many schools these have already been replaced by open-plan gender-neutral toilet / changing facilities with individual cubicles. It should be made clear that such facilities are no longer acceptable and where they are currently in use they need to be replaced with segregated single sex spaces.

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

School leaders should not be put in a position where they are required to offer

alternative facilities to children who don't want to conform to their biological sex. This is allowing pupils to hold the school to ransom. They should only be required to make 'reasonable adjustment' in line with disability legislation already in place. Providing alternative facilities for children who don't want to conform to their biological sex will come at a significant cost for many schools. If a child who wishes to socially transition will require alternative toilets, changing rooms, or showers, school leaders should be expected to refuse the request, unless this has been deemed advisable by a comprehensive independent clinical assessment, and following full risk appraisal, and it is within the school's existing capacity to accommodate this. Even so, schools should still maintain discretion to refuse such requests. This needs to be made more explicit. School leaders do not have the professional capacity to make such decisions in isolation from specialist support, and effective risk appraisal guidance. Parents should be fully included in the risk appraisal process and clinical evaluation, and should have the right to veto any decision for their child to socially transition.

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]

The guidance states that, "No child should be allowed to share a room with a child of the opposite sex." The use of 'should' indicates that this is only guidance and not a legal requirement. The guidance should state that "Pupils must not be allowed to share a room with a child of the opposite biological sex." Providing alternative facilities for children who don't want to conform to their biological sex will come at a significant cost for many schools. If a child who wishes to socially transition will require alternative rooms, school leaders should be expected to refuse the request, unless this has been deemed advisable by a comprehensive independent clinical assessment, and following full risk appraisal, and it is within the school's existing capacity to accommodate this. Even so, schools should have the discretion to refuse such requests. This needs to be made more explicit. School leaders do not have the professional capacity to make such decisions in isolation from specialist support, and effective risk appraisal guidance. Parents should be fully included in the risk appraisal process and clinical evaluations,

and have the right to veto any decision for their child to socially transition.

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.]

The guidance makes provision for a gender-questioning child to be allowed to use the uniform of the opposite sex, whilst stating that “in general” they should “be held to the same uniform standards as other children of their sex.” The guidance should state that gender-questioning children should not be allowed to use uniform of the opposite sex. Allowing this is a form of social transitioning, and, like the use of opposite sex names/pronouns, should not be permitted, at least until this has been deemed advisable by a comprehensive independent clinical assessment, and following full risk appraisal. Even so, schools must have the discretion to refuse such requests. This needs to be made more explicit. School leaders do not have the professional capacity to make such decisions in isolation from specialist support, and effective risk appraisal guidance. Parents should be fully included in the risk appraisal process and clinical evaluation, and be able to veto any decision to allow the child to cross-dress or socially transition. School leaders should not be put under pressure to allow a child to use the opposite sex uniform. Schools should be told that their uniform policies and practices must reflect the principle outlined in the guidance, that children’s legal sex is ALWAYS the same as their biological sex (p6) and that this can be cited in policies.

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]

For fairness, as well as safety reasons, schools should NEVER allow biological males to compete with biological females in sports where biological boys have an advantage or where there is a safety risk to the biological girls. The guidance should state this explicitly. The guidance does say that “schools and colleges should adopt clear rules which mandate separate sex participation” in sports, and that “There can be no exception to this.” However, school leaders should be told that their sports policies and practices must reflect the principle outlined in the guidance, that children’s legal sex is ALWAYS the same as their biological sex and that this can be cited in their policies. Also, the guidance should trump any conflicting guidance issued by national sports governing bodies, whether prior or subsequent.

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?

Clearly, it is never likely to be fair or safe to allow biological males to compete against biological females in competitive or contact sports from secondary school onwards. As stated in the guidance, “boys are generally stronger, larger and heavier than girls, especially when they are going through or have been through puberty.” The guidance should rule out completely the possibility of biological males competing against biological females in sports from secondary school onwards. There should be no exceptions, as safety must precede all other considerations. It should also be stated that sex-based segregation of sports does not inhibit inclusion, as all children should be given the chance to participate in school sports, but this must be in a way that is in line with their biological sex.

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]

[Something else]

The guidance states that: "Single-sex schools can refuse to admit pupils of the opposite biological sex, regardless of whether the child is questioning their gender." We believe that the guidance should say: "Single sex schools MUST refuse to admit pupils of the opposite biological sex, regardless of whether the child is questioning their gender." Single sex schools should not merely be given permission to refuse to admit a pupil of the opposite sex, but should be required to do so.

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

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?

Gender Critical (GC) beliefs are held by the vast majority of the population, and are based on incontrovertible biological facts, in contrast to the notional and physiologically detached sense of self, as advocated by radical gender-ideology proponents, that cannot be proven. GC beliefs are in alignment with the fundamental tenets of all the major world religions, including, but not limited to, Christianity. Such beliefs are a protected characteristic under the Equality Act 2010. Despite this, so called 'misgendering' a child claiming to be 'Trans' has been enough to see some people with such beliefs lose their jobs, and for some teachers to be barred from teaching again. Had this guidance been in place 3 years ago then such examples may not have happened; that is, assuming the guidance was being applied. Therein lies the problem, will this guidance be followed?

Some school leaders and teaching unions are already advocating for this new guidance to be ignored, and are expressing this openly. This belligerent stance will need to be managed appropriately, to safeguard both teachers and pupils. Also, what happens when a different government is elected – will the progress made in this guidance be unravelled? All policies regarding gender questioning children must have regard to protecting the rights of those with religious / GC beliefs i.e. that people are created male and female, that their biological sex cannot be changed, and that gender is not distinct from biological sex, but merely a synonym for sex. This will need to apply to parents, teachers, other school staff, and pupils. Sex is a protected characteristic and the points that we have made in this consultation response are necessary to protect the inherent rights of both sexes, and especially girls.

General

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

Yes

We support the general approach of this draft guidance, but we feel it is not strong enough and, being non-statutory, it may be ignored by those who wish to continue propagating radical gender ideology. The various reports, mentioned earlier, have confirmed this is happening all too frequently. The guidance does contain useful clarifications, including that a child's legal sex is always the same as their biological sex, but this is not maintained consistently throughout the guidance. It is also good that the guidance avoids referring to children as 'transgender' and instead uses the language of 'gender questioning', and that the guidance recognises that 'gender identity' is a contested belief. What is not made clear is that Gender Critical views are shared by the vast majority of the population, and include the conviction that children should not be allowed to socially transition, since this is dangerous both to the pupils who are gender questioning, as well as the pupils who would potentially be influenced by association.

Under recent case law (see *Forstater v CGD 2021*), Gender Critical belief constitutes a protected characteristic that is required to be respected. It is good that the guidance states that "Schools and colleges should not proactively initiate action towards a child's social transition." However, the guidance needs to go further by preventing social transition requests in all but extreme cases, and only then when advised by independent clinical evaluation, and where risk appraisal deems the risk to other pupils to be minimal. ParentPower's position is that social transition is never in a child's best interest and should not therefore be allowed under any circumstances. However, where current law makes this position unenforceable, then the suggestions we have made earlier in this consultation response will help to mitigate the consequences of requests for social transition.

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

The guidance seeks to protect the rights of parents, who are a child's primary educators and carers, in requiring that parents are informed when a child requests to change gender. However, provision is included in the guidance that would circumvent parental notification in "exceptional circumstances". Such exceptional circumstances need to be clearly defined, in order for this loophole not to be exploited. It is good that the guidance states schools should not imply that contested views around gender identity are factual. Whatever a teacher's personal views, they are required under the Education Act 1996 to act impartially, which means not affirming contested beliefs as fact. This needs to be made explicit. It is good that the guidance recognises the free speech rights of teachers and parents, in stating that "no teacher or pupil should be compelled to use these preferred pronouns." Indeed, there should never be any sanction for referring to someone by their biological sex. The guidance tackles the risk of biological boys entering into female toilets / changing rooms / dormitories. However, this needs to be framed in the context of the safeguarding risk that such entry represents. There should be no exceptions. Lastly, it is not right to place school leaders in the position of deciding whether a child should be allowed to socially transition, as they lack the clinical competence, and by so doing may open themselves up to potential legal action in the future. At the very least, schools' leaders should be supported via independent clinical assessment and comprehensive risk appraisal, and any decisions to allow social transition may be vetoed by the parents.